No. 80-795

IN THE

Supreme Court of the United States

October Term, 1980

MICHAEL HEFFRON, Secretary and Manager of the Minnesota State Agricultural Society Board of Managers, HARVEYDALE MARUSKA, President of the Minnesota State Agricultural Society Board of Managers, the Members of the Board of Managers of the Minnesota Agricultural Society, and WARREN SPANNAUS, Attorney General of the State of Minnesota, individually and in their official capacities,

Petitioners,

vs.

INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS, INC., and JOSEPH BECA, on behalf of themselves and THE INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS members,

Respondents.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MINNESOTA

JOINT APPENDIX

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DOCKET ENTRIES

International Society for Krishna Consciousness
v. Michael Heffron, et al
Ramsey County District Court
File No. 421846
Civil Register

8-26-77—Summons and Complaint for Declaratory and Injunctive Relief
Affidavit of James Payne
Motion for Temporary Restraining Order,
Motion for Preliminary Injunction,
Affidavit of Joseph Beca, a/k/a
Naikatma, Memorandum filed
Order, Abramson, Judgment for Temporary Restraining Order filed
Cash bond $150 received from International Society for Krishna Consciousness, Inc.

8-30-77—Affidavit of Service of Order, etc. filed

1-14-78—Deposition of Joseph Beca, a/k/a Naikatma

3-3-78—Plaintiff's Request for Production of Documents with Affidavit of Service filed

7-31-78—Notice and Cross Motion by Defendant filed

7-31-78—Stipulation of Facts, also, Defendant's Memorandum, Affidavit of Service, attached

7-31-78—Plaintiff's Notice of Motion and Motion and Memorandum filed

8-2-78—Affidavit of David C. Ewert filed

8-7-78—Plaintiff's Reply Brief filed

8-10-78—Affidavits of Tom Kerr, Joseph Beca filed

8-18-78—Order, Plunkett, J. filed

8-24-78—Judgment Roll made and filed, Summary Judgment entered in favor of Defendants.
No costs.
11-16-78—Affidavit of Service, Notice of Appeal filed
$500 Bond on Appeal with Empire Fire and Marine Insurance Company filed in Bond File No. 8899
Return to Supreme Court
7-13-79—File, et al to Supreme Court, Receipt filed
7-23-79—Receipt returned from Supreme Court and filed
12-12-80—Above file and contents returned from Supreme Court and filed. Copy to Supreme Court.
12-11-80—Order and Mandate from Supreme Court filed
12-24-80—Satisfaction of Judgment filed
2-2-81—Letter 1-29-81 signed Kent G. Harbison, Special Assistant Attorney General, filed
2-10-81—Index filed and file and contents to U. S. Supreme Court

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SUMMONS

THE STATE OF MINNESOTA TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to serve upon Plaintiffs' attorneys an Answer to the Complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the date of such service. If you fail to do so, judgment by default will be taken against you for the relief prayed for in the Complaint.

DAYTON, HERMAN &
GRAHAM
By /s/ JAMES A. PAYNE
Attorney for the Plaintiff
800 Midland Bank Building
Minneapolis, Minnesota 55401
(612) 339-7633

(Title of Cause.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This is a civil rights action brought to enforce the rights of Plaintiffs under the First and Fourteenth Amendments of the United States Constitution, for declaratory and injunctive relief pursuant to 42 U.S.C. §1983 and the Minnesota Declaratory Judgment Act, Minn. Stat. §555.01. This action is brought by the International Society for Krishna Consciousness, Inc. to enjoin enforcement of a standardless licensing law (Minnesota State Fair Rule 6.05) which is unconstitutional both on its face and as applied to the distribution and sale of religious literature and the solicitation of donations by a religious group in those portions of the Minnesota State Fair Grounds open to the general public. Plaintiffs also seek to enjoin the exercise of any general regulatory discretion vested in the Defendants by state law (Minn. Stat. Ch. 37) to manage the affairs of the Minnesota State Fair in a manner which precludes Plaintiffs from engaging in protected religious activities at the State Fair. The law at issue is defective because it is standardless, vague and overbroad, vesting discretion in officials to grant or deny licenses for the exercise of First Amendment rights, without definite, narrow and objective standards to govern such discretion; because it lacks definition; and because it lacks adequate due process procedures respecting the application, consideration, denial, and revocation of licenses. Plaintiffs seek temporary injunctive relief so that they may proceed with the proselytizing and missionary activities which are the very mainstay and lifeblood of their religious movement.

II. PARTIES

Plaintiffs

2. International Society for Krishna Consciousness, Inc. (ISKCON) is an international religious society which espouses the religious and missionary views of Krishna Consciousness. It is duly organized as a non-profit religious corporation under the laws of the State of Minnesota and under the laws of the State of New York, and maintains temples and schools in cities throughout the United States and the world, including Minneapolis, Boston, Atlanta, Washington, D.C., New York, Los Angeles, Montreal, Paris, Singapore, and Tokyo. ISKCON is described by members of the judiciary having reviewed the organization in *ISKCON v. Conlisk*, 374 Fed. Supp. 1010 (W.D. Ill. 1973) and *ISKCON v. New Orleans*, 347 Fed. Supp. 945 (E.D. La. 1972).

3. Joseph Beca is the head of the Minneapolis temple of ISKCON. He has been a devotee of the religion for four years and has been ordained as a priest, or Brahmin, for two years. Joseph Beca whose religious name is Naikatma, performs religious missionary work in public places and wishes to continue doing so, including the areas of the Minnesota State Fair Grounds open to the public.

Defendants

4. Michael Heffron is the Secretary of the Board of Governors of the Minnesota State Agricultural Society and Manager of the Minnesota State Fair, and as such is the person charged with supervising all activities at the Minnesota State Fair and through his subordinates with implementation and enforcement of all State Fair rules and regulations.

5. Harveydale Maruska is the President of the Board of Governors of the Minnesota State Agricultural Society and, with Michael Heffron, is charged with appointing peace

officers who enforce all rules, regulations, laws, statutes, and ordinances on the Minnesota State Fair Grounds, including the arrest of persons who violate such laws. Minn. Stat. §37.20.

6. Warren Spannaus is the Attorney General of the State of Minnesota, and, as such, designates a subordinate to act as attorney to the Board of Governors of the Minnesota Agricultural Society; that attorney is charged with securing the prosecution of those arrested at the Minnesota State Fair Grounds for violations of law, ordinance, statute, rule or regulation.

7. The Board of Governors of the Minnesota Agricultural Society is charged by law with the administration and regulation of all activities of the Minnesota State Fair, and, through its subordinates, enforces all rules, regulations, laws, statutes, and ordinances at the Fair.

8. All defendants are sued individually and in their official capacities. The acts and practices of the defendants and their agents, as herein alleged, were performed under color of law (Minn. Stat. Ch. 37) and, therefore, constitute actions of the state within the meaning of the Fourteenth Amendment to the United States Constitution.

III. FACTS

9. The Hare Krishna religion, as ISKCON is commonly known, imposes on its members the duty to perform a religious ritual known as Sankirtan, which consists of disseminating and selling religious tracts and soliciting contributions for their religious activities in public places. Sankirtan is directed to spreading religious truth as it is known to the Hare Krishna religion, attracting new members, and supporting ISKCON's religious activities. Donations and book sales are the very lifeblood and principal means of support of this movement.

10. ISKCON's devotees have expressed a desire to perform Sankirtan in those portions of the Minnesota State Fair Grounds open to the general public during the 1977 Minnesota State Fair. They seek only to distribute religious literature, solicit donations, and proselytize their religious beliefs and do not seek to dance, chant, or to engage in any other potentially disruptive or disorderly conduct.

11. ISKCON's devotees have tried to allay any fears Defendants might have that their religious activity might be disruptive to normal Fair activities by offering to wear identifying name tags at all times, to limit the number of devotees at the State Fair Grounds, to approach only consenting patrons, to refrain from engaging Fair patrons in conversation near entrances or exits to buildings or exhibits or in areas where there are lines or queues, and to identify themselves to Fair officials, including police officials.

12. The Minnesota State Fair Grounds are owned by the State of Minnesota and operated by the Minnesota State Agricultural Society (Agricultural Society). The Agricultural Society exercises unique power over the State Fair Grounds, its Secretary and President being authorized to appoint peace officers to enforce all applicable state and local ordinances in addition to all of the rules and regulations promulgated by the Agricultural Society. Those arrested for violation of any law or regulation while attending the Minnesota State Fair are prosecuted by referral from a subordinate of the Attorney General's Office. The State Fair is virtually a public thoroughfare for thousands of persons annually, attracting fairgoers from all parts of the state and beyond the state.

13. Plaintiffs are informed by Defendants that Defendants will prevent them from selling religious literature and

from soliciting religious donations throughout the Minnesota State Fair Grounds. Plaintiffs will be subject to arrest, prosecution and/or removal from the State Fair Grounds.

14. Rule 6.05 of the Rules and Regulations of the Minnesota State Fair provides:

> Sale or distribution of any merchandise, including printed or written material except under license issued for the Society and/or from a duly licensed location shall be a misdemeanor.

15. Minnesota Statutes §37.20 provides that constables or deputies appointed by the Secretary or the President of the Agricultural Society may "without warrant, arrest any person found violating any law of the State, or any rule, regulation, by-law, or ordinance of the Society, and may summarily remove the persons and property of such offenders from the grounds . . ."

16. Rule 6.05 of the Minnesota State Fair Rules and Regulations on its face and as applied to prohibit the distribution and sale of religious literature by members of a religious organization, without a license for which no definite standards are specified, without adequate due process procedures respecting the denial and revocation of licenses, and because arbitrary and overbroad restrictions are included respecting the relegation of Plaintiffs to a licensed booth, substantively abridges the exercise of freedoms of speech and press, arbitrarily deprives persons of their liberty and property without due process of law, capriciously denies the equal protection of laws, and is vague, ambiguous and overbroad, all in violation of the First and Fourteenth Amendments to the United States Constitution.

17. Minnesota Statutes §37.20 and the general regulatory discretion vested in the defendants by state law abridge the

First and Fourteenth Amendments to the United States Constitution by illegally delimiting the ability of Plaintiffs to carry out their religious mission.

IV. EQUITY AND IRREPARABLE INJURY

18. There is between the parties actual controversy as herein before set forth. The Plaintiffs are suffering irreparable injury and are threatened with irreparable harm in the future by reason of the acts herein complained of and a substantial loss or impairment of freedom of expression will occur and will continue to occur so long as Defendants' conduct continues. Plaintiffs will be harassed and intimidated by defendants or their agents utilizing the regulation at issue and the general discretionary power of the Agricultural Society so long as Plaintiffs attempt to proselytize at the Minnesota State Fair. Furthermore, a chilling effect upon the exercise of First Amendment rights may derive from the fact of threats of prosecution unaffected by prospects of its success or failure.

19. Plaintiffs have no plain, adequate or complete remedy to speedily redress the wrongs herein complained of other than this action. No other remedy for which Plaintiffs might apply brings substantial relief. The award of damages to Plaintiffs is not adequate to protect them from the continuing threatening conduct of Defendants and the chilling effect it has upon the exercise of Plaintiffs' constitutional rights.

V. RELIEF

Plaintiffs pray that this Court:

1. Declare that Minnesota State Agricultural Society Rule No. 6.05 on its face and as applied to prohibit distribution and sale of Plaintiffs' religious literature and solicitation of donations for religious purposes by members of a religious organization abridges the free exercise of religion

and the freedoms of speech and press, contrary to the First and Fourteenth Amendments to the United States Constitution.

2. Declare that the discretionary powers of the Minnesota State Agricultural Society, its agents and employees when exercised to prohibit the distribution and sale of Plaintiffs' religious literature by members of a religious organization abridges the free exercise of religion and the freedoms of speech and press, contrary to the First and Fourteenth Amendments of the United States Constitution.

3. Temporarily and permanently enjoin the Defendants from arresting Plaintiffs for solicitation for religious purposes or for sale of religious literature or for proselytizing their religion and further enjoin the Defendants from preventing the Plaintiffs from conducting these activities on those portions of the Minnesota State Fair Grounds open to the public; and

4. Grant Plaintiffs attorneys' fees, costs and such other and further relief as may be equitable and just.

DATED: August 24, 1977.

(Caption)

AFFIDAVIT OF JOSEPH BECA,
also known as NAIKATMA

State of Minnesota
County of Hennepin—ss.

I, Joseph Beca, also known as Naikatma, being duly sworn, depose and say:

1. I am a named plaintiff herein, and am the leader of the Minneapolis temple of the International Society for Krishna Consciousness, Inc. (hereinafter "ISKCON"), also known as the "Hare Krishna religion." I have been a devotee of the religion for four years and was initiated in 1973. Naikatma

is my spiritual name and the name I am known by; Joseph Beca is my legal name. My full time life's work is as a Krishna Consciousness missionary.

2. I make this affidavit in support of the Complaint, Motion for Temporary Injunction and Motion for Preliminary Injunction in the above-captioned matter.

3. The International Society for Krishna Consciousness is an international religious society which espouses the religious and missionary beliefs of Hinduism as expressed by the Hindu denomination, Krishna Consciousness. Krishna Consciousness is the branch of Hinduism which believes in the absolute supremacy of a single God or Deity (in Sanskrit "Krishna"). Moreover, the Hindu scriptures are taken more literally by Krishna Consciousness than other Hindu sects. The antecedents of this monotheistic fundamentalist Hindu sect are ancient. ISKCON is duly organized as a non-profit religious corporation under the laws of the State of New York and under the laws of the State of Minnesota. The Society maintains temples and schools in cities throughout the United States and the world, including Minneapolis, San Francisco, Montreal, Paris, Singapore, Tokyo, and India. ISKCON is more fully described in *ISKCON v. Conlisk*, 374 Fed. Supp. 1010 (W.D. Ill. 1973) and *ISKCON v. New Orleans*, 347 Fed. Supp. 945 (E.D. La. 1972).

4. Hinduism as expressed by Krishna Consciousness imposes on its members the duty to perform a religious ritual known as Sankirtan which consists of going out into public places and disseminating and selling religious literature and soliciting contributions to support Krishna Consciousness. Sankirtan is directed to spreading religious truth as it is known to Krishna Consciousness, attracting new members, and supporting ISKCON's religious activities. Donations and

book sales are the very lifeblood and principle means of support of this religious movement.

5. I and the other ISKCON devotees have expressed our desire to perform Sankirtan in those portions of the Minnesota State Fair Grounds open to the general public during the 1977 Minnesota State Fair. We seek only to distribute literature and solicit donations at the Fair, and to discuss our religious beliefs with Fair patrons; we do not seek to dance, chant, or to engage in any disruptive conduct.

6. The Minnesota State Fair is run by the Minnesota State Agricultural Society, a public corporation created by statute. The Agricultural Society has promulgated rules and regulations governing conduct at the Fair, and Rule 6.05 prohibits the sale or distribution of any merchandise, including printed or written material, without a license from the Agricultural Society and/or from a duly licensed location. Violators of Rule 6.05 will be prosecuted as for a misdemeanor. A copy of Rule 6.05 is attached hereto.

7. Thousands and thousands of people from Minnesota, surrounding states, other parts of the country, and even international travelers visit the Minnesota State Fair each year. Large public gatherings such as this constitute the kind of forum where devotees may most readily perform Sankirtan, for people in the position of fairgoers are particularly receptive to receiving books and discussing Krishna Consciousness. This is because people in a recreational situation such as a day trip to the Fair have substantial time to spare that would not be available to them on a normal work day and because fairgoers are open to new ideas and different cultural or educational experiences. Furthermore, there is a constant turnover of people passing through the thoroughfares of the Fair Grounds and therefore we are able to approach many people

who have never been met by devotees before. Our many publications, printed in English and other languages, are distributed to fairgoers who subsequently return to other states and rural areas of this state, thus widely spreading the message of Krishna Consciousness.

8. While the other devotees and I find the public areas of the State Fair Grounds a highly appropriate location for Sankirtan, we run the risk of expulsion or arrest and prosecution if we go there to discuss Krishna Consciousness, to sell our religious literature and to solicit donations to further our cause.

9. It is absolutely vital to Sankirtan that we be allowed to circulate freely among fairgoers, for a small booth provides patrons little opportunity to meet devotees. It is not our practice to detain patrons or to talk with them unless they express a willingness to listen.

10. I would like to take the opportunity of this affidavit to further describe our religious movement.

11. Krishna Consciousness' scriptual foundations are the *Vedas*, ancient Hindu religious texts dating to 3000 B.C. *Veda* means knowledge descending from the Supreme Lord or Godhead to man, enlightening souls fallen from the spiritual world, ignorant of man's original spiritual nature and eternal relationship with God.

12. In previous millenniums, intelligence, memory and all other intellectual functions were so highly developed and refined that there was no necessity of writing down Vedic knowledge. Therefore, Vedic knowledge was transmitted by oral tradition. However, at the beginning of Kali Yuga, 5,000 years ago, the current age of quarrel, the great sage Vyasadeva (known as the "literary incarnation of God") foreseeing the degradation of human society and religious principles, compiled and recorded the vast body of Vedic knowledge.

13. The principal Vedic scriptures include *Upanishads, Mahabharata, Bhagavad-gita, Vedanta-sutra, Srimad Bhagavatam,* and *Sri-Caitanya-caritamatra.* The powerful influence of the Vedic scriptures has, within the last two centuries, expanded beyond the borders of India to the West, strongly influencing generations of philosophers and theologians.

14. These texts comprise the words of Sri Krsna (a name of God meaning "the all attractive one") and completely delineate the absolute truth in its five aspects, God, the living entity, nature, time and activity. It is established that Krsna has supreme and ultimate control over all of the material universe, its entities and events.

15. The eternal living entities (souls) are originally from the spiritual world (Vaikuntha). At some point in time, however, a soul may fall from the spiritual world into the material world. When he enters the material world, he assumes a material form (the "body" as we know it). According to his pious or impious activities, he is elevated or degraded at the time of leaving his present body, to a more developed or less developed form. By principle of "karma" one is subject to the punishment or reward of one's actions—as in the Bible it is said "as ye sow, so shall ye reap." According to one's karma, at death, one moves on to a higher or lower developed body.

16. Transference from one material body to another, ad infinitum, is called "transmigration" or, more popularly, "reincarnation." In his conditioned state in the material world, the fallen soul identifies his eternal spiritual self with the transitory material body. This illusion, or false identification, is called "maya," "that which is not." While in this conditioned state, the soul is forced to act in different ways by the influence of the three modes (material qualities) called satva (goodness), rajas (passion) and tamas (ignorance). By com-

plex, labyrinthian, interpenetrating of desire, karma and modes, the living entity is trapped in an endless succession of rebirths.

17. This existence in the material world is very painful and full of suffering. The Vedas teach that the goal of human existence is to somehow escape this endless confinement in the prison-like material world and, concomitantly, be released from all material suffering. This liberation is called "mukti." The process of escape is receiving Vedic knowledge from a bona fide guru, who can impart the Vedic message to the suffering living entity. The spiritual master's function is to engage the living entity in loving devotional service to the Lord.

18. When the living being's activities are spiritualized, that is, becomes fixed upon the service of the Lord, then he becomes eligible to leave the transitory materialistic world, and through this perfect self-transcendence and enlightenment, re-enter into the eternal and blissful kingdom of God. This is the ultimate purpose of life.

19. Although thousands of different names for God are given in the Vedas, "Krishna" means "the all-attractive One" and is said to include them all. The term "Krishna Consciousness" is the essence of the Vedic religion. Krishna Consciousness is also known as "Bhakti yoga." Yoga means "to link with God" and "Bhakti" means "devotion." Krishna Consciousness is therefore the process of reuniting with God through pure devotional love.

20. Our principles include the following:

(a) By sincerely cultivating a bona fide spiritual science, we can be free from anxiety and come to a state of pure, unending, blissful consciousness in this lifetime.

(b) We are not our bodies but eternal spirit souls, parts and parcels of God (Krsna). As such, we are all brothers, and Krsna is ultimately our common father.

(c) Krsna is eternal, all-knowing, omnipresent, all-powerful, and all-attractive. He is the seed-giving father of all living beings, and He is the sustaining energy of the entire cosmic creation.

(d) The Absolute Truth is contained in the *Vedas*, the oldest scriptures in the world. The essence of the *Vedas* is found in the Bhagavad-gita, a literal record of Krsna's words.

(e) We should learn the Vedic knowledge from a genuine spiritual master—one who has no selfish motives and whose mind is firmly fixed on Krsna.

(f) Before we eat, we should offer to the Lord the food that sustains us. Then Krsna becomes the offering and purifies us.

(g) We should perform all our actions as offerings to Krsna and do nothing for our own sense gratification.

(h) The recommended means for achieving the mature stage of love of God in this age of Kali, or quarrel, is to chant the holy names of the Lord. The easiest method is to change the Hare Krsna mantra:

Hare Krsna, Hare Krsna, Krsna, Krsna,
Hare Hare Rama, Hare Rama, Rama Rama, Hare Hare.

21. The ancient *Vedas* (scriptures) predict that the self same Sri Krsna who spoke the Bhagavad-gita and other scriptures would again appear in this age to propagate the same eternal principles of religion. In the *Srimad Bhagavatam* (10:5:32), it is stated, "In the Kali Yuga (present age) the Supreme Lord comes as One who always chants the name of Sri Krsna Who is Sri Krsna Himself and whose complexion is yellow."

22. That incarnation five hundred years ago in West Bengal, India, was in the form of Lord Caitanya Mahaprabhu, and it was He who revitalized God or Krsna consciousness and actuated the Sankirtan Movement, which is known around the world as the International Society for Krishna Consciousness or Hare Krishna movement. Lord Caitanya taught by word or by example how one can perfectly live according to the principles of the Vedic scriptures. He was the Supreme Lord acting as a devotee to set the perfect example of spiritual life for all men everywhere. He traveled throughout India chanting and preaching his message of love of God and he instructed all of his followers to do likewise. Lord Caitanya taught that public congregational chanting of the names of God and the public broadcasting and publishing of the glories of God is the only effective means of revival of Krishna Consciousness in the present age. This process of glorification is called "sankirtan yajna" in Sanskrit, or the sacrifice (yajna) of broadcasting the name and fame of the Lord. All of his men were required to canvas door to door every day. Indeed, he said, "you must go all over the world, village to village, town to town, and enlighten everyone in the matter of spiritual life." This was His divine command. Therefore, every sincere follower of Lord Caitanya must do his part to carry out his mission.

23. Sankirtana-yajna is described in the purport to *Srimad-Bhagavatam*, Canto 5, Chapter 19, page 260, as:

> "The mission of the Krsna consciousness movement. *Caitanya-Bhagavata* confirms this as follows: 'One should not desire to be elevated even to a place in the heavenly planetary systems if it has no propaganda to expand the glories of the Supreme Personality of Godhead, no trace of Vaisnavas, pure devotees of the Lord, and no festivals

for spreading Krsna consciousness.' . . . Similarly, in Caitanya-caritamrta, Krsnadasa Kaviraia Goswami says that since Sri Caitanva Mahaprabhu is the inaugurator of the sankirtana movement, anyone who performs sankirtana to please the Lord is very, very glorious. Such a person has perfect intelligence, whereas others are in the ignorance of material existence. Of all the sacrifices mentioned in the Vedic literatures, the performance of sankirtana-yajna is most exalted."

24. It was in this spirit and under Sri Caitanya's mandate that the Sankirtan movement was brought to the Western world eleven years ago by His Divine Grace A.C. Bhaktivedanta Swami Prabhupada, our spiritual master, who is eleventh in line of disciplic succession from Sri Caitanya. In pursuing the mission of Sri Caitanya, Srila Prabhupada has instructed us to go wherever people publicly gather, collect alms, and distribute literature describing the glories of God. Therefore, the profuse distribution of books has become our life and soul.

25. The International Society for Krishna Consciousness has nearly one hundred temples, ashrams (spiritual centers), farm communities and schools spread over six continents, and is comprised of several thousand full-time members. All the centers are bound by identical guidelines for worship and daily activities that are strictly based upon the authority of the Vedic scriptures.

26. In contrast to the complexity and anxiety of modern life, the Krishna Conscious life is based strictly upon the Vedic principle of "simple living and and high thinking." Meat eating, non-marital non-procreational sex, intoxication and drugs, and gambling are absolutely prohibited. Devotees rise very early, at 4:00 a.m., and spend the morning hours in meditation and study, attending classes in the profound and practical

scriptures of Bhagavad-gita and Srimad-Bhagavatam. Srila Prabhupada's translations and commentary of these Vedic classics are our lanterns. In the morning hours, the devotees also meditate on the Maha-Mantra, composed of the following transcendental names of God: Hare Krsna, Hare Krsna, Krsna Krsna, Hare Hare/Hare Rama, Hare Rama, Rama Rama, Hare Hare. Vedic literature states that this meditation is the simplest and most sublime process for reviving God consciousness in the current materialistic age. During the day, the main activity is preaching Krsna consciousness. Many devotees go out to public places to distribute the Society's books and its official journal, Back to Godhead magazine, which has a monthly circulation of more than a million copies in some languages.

27. Once a year, many members of ISKCON journey to the Society's international headquarters at Sridhama Mayaput, West Bengal, India. Srila Prabhupada has proposed establishing an Institute of Vedic Studies at this site, where visitors from all over the world can learn about Vedic culture and witness it in practice. Presently the worldcenter includes a large facility for massive distribution of food to thousands of needy families. Another major Indian center is in Vrndavana, the birthplace of Lord Krsna, where the Society has recently opened the magnificent Krsna-Balarama Temple and International Guest House.

28. In the United States and other countries, ISKCON has established a series of rural asramas, each a model of Vedic agrarian life. Avoiding modern farm machinery as far as possible, they demonstrate that a human being need not depend on the artificial economy of the city. He can live peacefully and simply in the country while pursuing a spiritual life.

29. In 1972, His Divine Grace introduced the Vedic system of primary and secondary education in the West by founding the Gurukula school in Dallas, Texas. The school began with three children in 1972, and by the beginning of 1975 the enrollment had grown to one hundred fifty. Taught by academically qualified members of the Society, the children learn Sanskrit language and Vedic culture as well as the usual subjects like English, math and history. The unique feature of Gurukula is that the entire educational process is centered around the goal of self-realization. In his book, *Hare Krishna and the Counter-culture*, (John Wiley and Sons, Inc.), Dr. Stillson Judah, Professor of History of Religion, Graduate Theological Union in Berkeley, California, says, "The student is taught to be kind to everyone, not to be quarrelsome, to be charitable, clean, benevolent, self-controlled, completely devoted to God and free from material desires."

30. People from India who visit our centers often express their appreciation that the principles of Vedic religion and culture have not been compromised in the ISKCON movement, as had been done by other sects purporting to be based on Vedic authority. In fact, most American scholars who study the Krishna Consciousness movement acknowledge that the Krishna Consciousness movement is the first successful attempt to transmit authentic Vedic culture to the West.

31. The International Society for Krishna Consciousness was formed in America as a vehicle to teach true Vedic spirituality to the Western World. As mentioned, Vedic knowledge traditionally is preserved, passed down and disseminated by disciplic successions. Srila Prabhupada, acting on the teaching of his spiritual master, determined to bring the gift of Vedic culture to the West. He sailed to America from India in 1965, and after much personal struggle, finally established the first

Krishna Consciousness temple in New York City in 1966. Since then, by his dedicated efforts and the hard work of his disciples, the movement has spread all over the world.

32. ISKCON's purpose is two-fold. First, it provides a living situation in which devotees can peacefully execute their spiritual life. Secondly, it seeks to make this knowledge available to as wide a number and cross-section of the population as possible. It is a devotee's duty and sincere desire to benedict everyone, regardless of race, creed, color or nationality, with this sublime wisdom of Vedic knowledge that leads back to Godhead. The missionary activity of distributing Krishna Consciousness all over the world is inseparable from the very practice of Krishna Consciousness. Indeed, as stated, the Vedic scriptures teach that the yugadharma, or supreme religious duty of this age is to benedict others with Krishna consciousness.

33. The age of kali (quarrel) began with Vyasadeva's transcription of Vedic knowledge. The scriptures and teachers of Krishna Consciousness have underscored the distribution and reading of Vedic literature as the most practical method for reviving God consciousness in the world. Sri Caitanya personally ordered his disciples to write books explaining the Vedic knowledge and a small handful of his intimate disciples wrote literally hundreds of books. When Srila Prabhupada's spiritual master instructed him to teach Krishna Consciousness to the West, the importance of the distribution of Krishna Conscious literature was underscored. Therefore, Srila Prabhupada has written over fifty books, large and small, for the Western reader. His books comprise his own translations of various scriptures, including the Bhagavad-gita and Srimad-Bhagavatam, and include his own purports or commentaries interpreting the scriptures. Additionally, he founded our

monthly publication, Back to Godhead, which is a compendium of articles on Krishna Consciousness. These books and magazines, printed in vast quantities are publicly distributed by Krishna Consciousness devotees.

34. ISKCON seeks to make Vedic knowledge available to all persons without discrimination by bringing this knowledge out into the American free marketplace of ideas. In a country such as Russia, unfortunately, the government openly criticizes and suppresses free religious expression and ISKCON has not yet been able to firmly establish a base there. However, in the United States, founded by men of strong religious principles and based upon freedom of religious expression, ISKCON has found an open forum for the expression of its principles and beliefs. ISKCON feels that the best defense against Communism, which openly propagates atheism, is the maintenance of a healthy state of national God-consciousness.

35. Every day in every kind of weather, from ISKCON centers worldwide, devotees preach in public places. Risking personal danger (devotees have been robbed, beaten, raped and even killed) and facing frequent insult and ridicule for their unconventional appearance of shaved heads and religious robes, the devotees dedicate their lives to distributing Vedic knowledge to the mass of the people. Sankirtan can be so difficult at times, that only the most dedicated, compassionate and self-sacrificing devotees make this distribution their personal full-time duty. These devotees are highly respected within the ISKCON movement for their difficult work and selfless dedication. The devotees who distribute books receive no salary for their activities. ISKCON provides fully for the economic maintenance of its members, and its members perform missionary activities as a voluntary and joyful duty, for the benefit of human society.

36. Thus, the performance of Sankirtan, the most essential aspect of which is the distribution of Vedic literature and preaching, is the life and soul of the Krishna Consciousness movement. Krishna Consciousness is a joyful and peaceful way of life, and the devotees of ISKCON are not content with simply enjoying the life of Krishna Consciousness alone. They want the whole world to be able to take advantage of this great Vedic knowledge and thus become peaceful, happy and fulfilled. It is hoped that government officials will cooperate with this movement by insuring the continued freedom, constitutionally protected, to distribute literature in all public places.

37. Understanding that the natural position of everyone is to act harmoniously with God, and that forgetting this is the cause of all human suffering, the members of ISKCON undertake as their life's mission the helping of others to regain their lost God-consciousness. Because such a vast quantity of knowledge dealing with man's relationship with God is contained in the Vedic scriptures, the most effective means of preaching is through the distribution of large quantities of these literatures to the people in general.

38. In order to deal with the public in a manner befitting that of a man of God, all those participating in the book distribution program are required to be highly trained and qualified. His Divine Grace A.C. Bhaktivedanta Swami Prabhupada has given important directives in this regard:

> "My general request is that you all distribute as many books as possible and at the same time be very careful in dealings with others so that they may not become irritated with us . . . Our men should be adored for their honesty . . . Purity is the force . . . If you simply glorify Krsna and our books in the best descriptive manner anyone and everyone, even if they are atheists or other-

wise, can be convinced to purchase them. Of course, that is a great art, and not everyone can do it. But gradually, by preaching in this way, striving so much to present a wonderful picture of our books to the people, gradually you will master the way of how to do it."

39. Bearing these instructions in mind, our practice is to attempt to talk to members of the public about our faith, to advocate the reading of our literature, and to encourage donations to support our religion. Devotees are instructed to simply present the literature to passersby and begin engaging them in conversation about the contents. After some explanation, the individual is encouraged to take the book and give a donation to cover the printing costs and more, if possible, to help support the missionary movement of Krishna Consciousness. If a sincerely interested person cannot afford the full cost of the book, he is still encouraged to keep it at whatever price he can pay.

40. Devotees are frequently given classes on the techniques and philosophy of preaching God consciousness through the distribution of Vedic literature. Devotees who practice Sankirtan at the Minneapolis Airport and at other public places are instructed to be courteous and, although devotees are often enthusiastic they are cautioned not to be aggressive as to anger people. Short-change tactics, and any other sort of morally and legally unfair practices are strictly forbidden. Devotees are instructed not to impede traffic and not to be insistent with those persons who state that they are not interested. Any devotee who goes beyond these mandates is acting in an unauthorized manner and his conduct is in no way condoned by this international religious movement. Devotees are instructed that they are subject to all laws regarding the conduct of individuals in public places, such as theft, fraud, assault and block-

ing traffic. In this way, ISKCON hopes to maintain the highest standard of conduct and character among all of its devotees.

41. As stated, Krishna Consciousness and the Sankirtan Movement was brought to the Western world 11 years ago by His Divine Grace A.C. Bhaktivedanta Swami Prabhupada, our spiritual master, who is eleventh in line in disciplic succession from Sri Caitanya. In pursuance of the mission of Lord Caitanya, Srila Prahbupada has instructed us to go wherever people publicly gather, collect alms and distribute literature describing the glories of God. Indeed, he instructed in a letter, "This distribution of our books is the only way we can save the world." Preaching of the message of Krishna Consciousness is inextricably based on the publishing and distribution of *Vedic* books because these books directly contain our scriptures.

42. Finally, to repeat, donations and scripture sales are the very lifeblood and principal means of support of my religious movement. For my scripture and religious literature distribution to be possible, I have to be able to solicit donations to defray printing and other distribution costs. I personally am paid nothing, but am totally sustained and provided for by my temple.

43. I respectfully submit that only by the recognition of God as the supreme father can there be brotherhood, peace and prosperity. In this materialistic world, the temples of Krishna Consciousness are like oases in the desert where parched men may seek the nectar of happiness. We invite one and all to stop at our temples and take part in our program of classes, festivals, chanting, feasting and worship. The temples are open for everyone and everyone is invited to visit

them and inquire into this sublime and easy process for finding perfect happiness.

JOSEPH BECA, also known as
NAIKATMA

Subscribed and sworn to before me this 24th day of August, 1977. Kathleen M. Graham, Notary Public, Hennepin County, Minnesota. My commission expires Aug. 28, 1983.

(Caption)

AFFIDAVIT OF MICHAEL HEFFRON

Michael Heffron, being first duly sworn upon oath, deposes and says as follows:

1. I am the Secretary-General Manager of the Minnesota State Fair. This affidavit is submitted in opposition to plaintiffs' request for injunctive relief.

2. Having been appointed to my current position by the Board of Managers of the Minnesota State Agricultural Society, I am responsible for the day-to-day overall supervision and management of the annual Minnesota State Fair on the state fairgrounds in Ramsey County, Minnesota.

3. The space, including permanent buildings and structures, occupied by State Fair exhibitors and concessionaires generally covers about 125 acres, with the bulk of these persons or groups concentrated in an area about one-third of the total area.

4. During recent years the Minnesota State Fair has been forced to decline each year approximately 300-500 applicants for exhibit/concession space on the fairgrounds for the sole reason that such space is not available by the time of their applications. Currently there are approximately 1,400 exhibitors and concessionaires with fairgrounds space at the 1977 State Fair.

5. The Minnesota State Fair has attempted to treat all applicants equally and uniformly in determining who is permitted to rent or obtain space for the sale or display of their products, books, wares and other materials. This determination is made on a "first-come, first-served" basis.

6. The foregoing policy has been conveyed to plaintiffs by me and my staff, as evidenced by the letters attached hereto as Exhibits "A" and "B." The aforesaid letters were written in response to the only two inquiries my staff received from plaintiffs' agents, which inquiries were received well after the time when space had already been allocated for the 1977 Minnesota State Fair.

7. At the present time, I have received no response to my letter of August 19, 1977, (Exhibit "B" hereto).

8. In conjunction with organizing and managing the annual State Fair, my staff and I have the responsibility to insure speedy and adequate fire, safety, health and welfare protection for all concessionaires, exhibitors, employees and those persons who attend the fair. The congested conditions on the enclosed fairgrounds during the annual State Fair makes this responsibility burdensome and critical.

9. In recent years during the annual State Fair there have been approximately 65-75 arrests and investigations of persons allegedly involved in violation of state criminal statutes (*e.g.*, assaults, controlled substance abuses and thefts) and state juvenile proceedings. In addition, the State Fair staff must act promptly to investigate and provide health care to at least twice as many persons who receive injuries on the fairgrounds.

10. During the past five years the annual State Fair attendance (excluding exhibitors, concessionaires and performers) has been 1,320,000. The average week-day atten-

dance has been 115,000, and the average attendance on Saturday and Sunday has been 160,000.

11. For many years the State Fair has rented booth or similar space to numerous groups and persons who use such space purportedly to espouse religious, political and other ideological views. There have been no exceptions to this rule. Attached hereto as Exhibit "C" is an accurate list of only some of the foregoing organizations and their respective rental fees paid for the 1977 State Fair.

12. The list contained on Exhibit "C" does not include several other groups which traditionally have occupied space on the Minnesota State fairgrounds and ostensibly would claim their activities to be protected by First Amendment freedoms of speech, press and religion. Examples include Minneapolis-St. Paul newspapers and broadcast media, all of which have confined their reporting and dissemination of news to fixed rental locations on the fairgrounds.

13. Rental fees are charged equally to State Fair exhibitors and concessionaires, based upon a flat rate per foot of frontage for each space allocation.

14. With respect to plaintiffs herein, the policy of the Minnesota State Fair is to treat them in the same manner as all concessionaires and exhibitors, whether strictly commercial or purely religious. This policy has been conveyed to plaintiffs by virtue of Exhibits "A" and "B" herein.

15. It is not the policy of the Minnesota State Fair to arrest and prosecute criminally members of the International Society of Krishna Consciousness for violations of the foregoing rental policy. I am not aware of any such arrest or prosecution ever having occurred at the fairgrounds. The policy has been merely to request (and evict, if necessary) violators to leave the fairgrounds.

16. The Minnesota State Fair is willing to rent or provide exhibit space for plaintiffs at a fixed location on the fairgrounds during the 1977 State Fair. Under our proposal, all sales or financial transactions and distribution of materials would be required, as they are for all fair exhibitors, to be limited to the aforesaid location.

17. The Minnesota State Fair staff does not intend to restrict plaintiffs from peaceably walking about the fairgrounds and discussing their political, religious or other views with Fair patrons.

18. Based upon my 20 years' experience with the Minnesota State Fair and information from my counterparts at other State Fairs, I believe that allowing an unlimited number of ISKCON devotees to have access to *all* public areas of the fairgrounds to dance, sing or chant or to sell, solicit, proselytize and distribute flowers, printed materials and other products without restriction would pose an imminent and serious threat to other State Fair exhibitors and concessionaires and to the one million or more persons who attend the Fair during a 12-day period. Such unlimited freedom would greatly increase the Fair staff's difficulties in maintaining crowd control and in providing ready access for fire, safety, health and other emergency vehicles and assistance throughout the fairgrounds.

19. Furthermore, based upon my experience as a fair administrator, I believe that allowing ISKCON devotees to have the full relief they request would encourage other similar groups or persons (including those who have been given and those who have been denied rental space for the 1977 State Fair) not to pay rental fees and to undertake the same activities now and at future Fairs. Such a result would not only have a major negative impact on Fair revenues but also would make

the fairgrounds almost unmanageable, all to the detriment of the health, safety and convenience of persons attending the Fair.

FURTHER AFFIANT SAYETH NOT.

MICHAEL HEFFRON

Subscribed and sworn to before me this 25th day of August, 1977.—Hazel I. Redlack, Notary Public, Ramsey County, Minn. My commission expires June 16, 1981.

(Caption)

ORDER FOR TEMPORARY
RESTRAINING ORDER

Plaintiffs' Motion for Temporary Injunction having been heard upon the affidavits of Joseph Beca and James Payne, Esq., and Plaintiffs' Memorandum of Law, and

The Court having considered the Memorandum of Law filed on behalf of the Defendants and the State of Minnesota by Kent G. Harbison, Assistant Attorney General, and the relevant affidavits filed therewith, and the Court further being mindful of the significant constitutional rights asserted to be involved in the actions of the Defendants, vis-a-vis Plaintiffs,

NOW, THEREFORE, IT IS ORDERED that Defendants, and each of them, their agents, officers, servants, employees, and all persons in active concert and participation with them are hereby restrained until further hearing and order of this Court from arresting, participating in the arrest of, excluding from the Fairgrounds, or preventing activities of Plaintiff, such as, espousing their religious beliefs, proselytizing others to those beliefs, distributing religious literature or soliciting donations for religious purposes in any portion of the Minnesota Fair Grounds generally open to the public during the 1977 Minnesota State Fair; it is, however, specifically

FURTHER ORDERED that Plaintiffs are enjoined from selling or inducing others to purchase, religious literature, items or artifacts, except at a space rented for that purpose on the grounds of the Minnesota Agricultural Society in compliance with the applicable regulations of said Society.

IT IS FURTHER ORDERED that this Order shall be effective upon Plaintiffs' posting of a bond in the amount of One Hundred & Fifty ($150) Dollars for the purpose of indemnifying Defendants from such costs and damages as may be incurred or suffered in the event Defendants are found to have been wrongfully enjoined or restrained hereafter.

SIDNEY P. ABRAMSON
Judge of District Court

Dated: August 26, 1977.

STIPULATION OF FACTS
CONDITIONS OF STIPULATION

International Society for Krishna Consciousness, Inc., and Joseph Beca, plaintiffs herein and Michael Heffron, Secretary-General Manager of the Minnesota State Agricultural Society and all other named defendants herein by and through their respective counsel do hereby stipulate that the facts hereinafter set forth are true and may be offered in evidence at the trial of this action without any additional identification or authentication. All facts recited herein are stipulated by and between the parties to this proceeding for the purpose of this action only and nothing contained herein shall constitute an admission by either party for any other purpose, action or proceeding.

Nothing contained in this stipulation shall preclude either party from presenting other relevant evidence with respect to the subject matter of this stipulation or any documents which are not inconsistent with the facts stipulated herein. Furthermore, nothing contained in this stipulation shall constitute an admission by either party with respect to the relevancy or materiality of any fact recited herein, and each party reserves the right to object to the admission of any or all facts recited herein on grounds of relevancy and/or materiality.

FACTS

1. The International Society for Krishna Consciousness, Inc. (ISKCON) is an international religious society which espouses the religious and missionary views of Krishna Consciousness. It is duly organized as a non-profit religious corporation under the laws of the State of Minnesota, as well as under the laws of other states, and maintains temples and schools in cities throughout the United States and the world, including Minneapolis, Boston, Atlanta, Washington D.C., New York, Los Angeles, Montreal, Paris, Singapore, and Tokyo.

2. Krishna Consciousness is the branch of Hinduism whose adherents subscribe to the absolute premise of a single god or deity (in Sanscrit "Krishna"). The sect's scriptural foundations are the *Vedas*, ancient Hindu religious texts dating to 3000 B.C.

3. ISKCON's purpose is at least two-fold. First, it provides a living situation in which devotees can peacefully execute their spiritual life. Second, it seeks to make available to as wide a number and cross-section of the population as possible the religious truth as it is known to ISKCON members.

4. During the day, the main activity of ISKCON members is preaching Krishna Consciousness. Many devotees go out to public places to distribute the Society's books and official journal, *Back to Godhead* magazine. The devotees who distribute books receive no salary for their activities, and lead an austere life, enjoying few material amenities.

5. Hinduism as expressed by Krishna Consciousness imposes on its members the duty to perform a religious ritual known as *Sankirtan*, which consists of going out into public places, to disseminate or sell religious literature and to solicit contributions to support the publishing, religious, and educational functions of Krishna Consciousness. *Sankirtan* is directed to spreading religious truth as it is known to members of Krishna Consciousness, to attracting new members, to supporting the publication of ISKCON's religious literature and to supporting other religious activities of ISKCON. Donations and book sales are a principal means of support of this religious movement.

6. Michael Heffron is the Secretary of the Board of Governors of the Minnesota State Agricultural Society and Manager of the Minnesota State Fair. As such, he is the person charged with supervising all activities at the Minnesota State Fair and, through his subordinates, with implementing and enforcing all State Fair rules and regulations.

7. Harveydale Maruska is the President of the Board of Governors of the Minnesota State Agricultural Society and, with Michael Heffron, is charged with appointing peace officers to enforce all rules, regulations, laws, statutes, and ordinances on the Minnesota State Fairgrounds, including the arrest of persons who violate such laws.

8. Warren Spannaus is the Attorney-General of the State of Minnesota and, as such, designates a staff member to act

as attorney to the Board of Governors of the Minnesota Agricultural Society; that attorney is charged with securing the prosecution of those arrested at the Minnesota State Fair Grounds for violations of law, ordinance, statute, rule, or regulation.

9. The Board of Governors of the Agricultural Society is charged by law with the administration and regulation of all activities of the Minnesota State Fair, and, through its subordinates, enforces all rules, regulations, laws, statutes, and ordinances at the fair.

10. The Minnesota State Fairgrounds are owned by the State of Minnesota and operated by the Minnesota State Agricultural Society. The Agricultural Society exercises unique power over the State Fairgrounds, as its secretary and president are authorized to appoint peace officers to enforce all applicable state and local ordinances in addition to all of the rules and regulations promulgated by the Agricultural Society. Those arrested for violation of any law or regulation while attending the Minnesota State Fair may be prosecuted by referral to a staff member of the Attorney-General's office.

11. ISKCON's devotees have expressed a desire to perform *Sankirtan* in those portions of the Minnesota State Fairgrounds open to the general public. By this lawsuit ISKCON devotees seek only to distribute and to sell religious literature, to solicit donations for their publications and for their religious activities, and to proselytize their religious beliefs. In performing *Sankirtan*, ISKCON devotees often greet members of the public by giving them flowers or small American flags, but for the purpose of this lawsuit they seek only to solicit contributions for their literature and their religious activities, and not for these greeting gifts. They do not seek to dance,

chant, or to engage in any other potentially disruptive or disorderly conduct.

12. At the 1977 State Fair, ISKCON devotees were permitted under the terms of a Temporary Restraining Order granted by the Court to espouse their religious beliefs, to proselytize others to those beliefs, to distribute religious literature, and to solicit donations for religious purposes in any portion of the State Fairgrounds generally open to the public. They were prohibited from selling or inducing others to purchase religious literature, items, or artifacts except at space rented for that purpose.

13. Rule 6.05 of the Rules and Regulations of the Minnesota State Fair provides:

> Sale or distribution of any merchandise, including printed or written material except under license issued for [from] the Society and/or from a duly-licensed location shall be a misdemeanor.

14. *Minn. Stat.* §37.20 provides that constables or deputies appointed by the secretary or the president of the Agricultural Society may "without warrant arrest any person found violating any law of the State, or any rule, regulation, bylaw, or ordinance of the Society, and may summarily remove the persons and properties from the grounds."

15. Defendants also claim that authority to regulate the activities of ISKCON devotees is inherent in *Minn. Stat.* §37.01 and §37.14, which grant the State Agricultural Society designees discretion in applying reasonable management policies to the operation of the State Fair.

16. Under the policy of the Minnesota State Agricultural Society, all persons, groups or firms which desire to sell, exhibit or distribute materials during the annual State Fair must do so only from fixed locations on the fairgrounds. In most

instances those fixed locations are in the form of booths or buildings the space of which is rented at a fixed rate by the exhibitor, distributor or concessionaire.

17. The Minnesota State Fair's rental of fairground space is embodied in a policy applied equally to all persons. That is, space is rented on a "first-come, first-served" basis, with space applications being received in January of each year. Those persons who do not apply for such space or apply after all the available space has already been rented to previous applicants are not permitted to sell, exhibit or distribute their goods on the Fairgrounds.

18. Because of the large number of persons and groups desiring space on the fairgrounds, each year about 300-500 applicants for exhibit/concessionaire space are rejected solely due to lack of space available by the time of the applications. Thus, many persons who desire to sell, distribute or exhibit their materials during the annual Fair are not permitted to do so.

19. Approximately 1,400 exhibitors and concessionaires have rented space for the 1977 and 1978 State Fairs.

20. The state fairgrounds occupies about 125 acres, the bulk of which is covered by permanent buildings and temporary structures, parking lots, roads, and streets. The layout of the fairgrounds is more fully described in the attached map.

21. The State Fair attracts fairgoers from all parts of the State and from other States. During the past five years the attendance at the annual Fair has been about 1,320,000. The average week-day attendance has been 115,000, and the average attendance on Saturday and Sunday has been 160,000. The total attendance during the 1977 State Fair was about 1,299,000.

22. In its rental of booth space the State Fair does not discriminate against groups and firms desiring to sell, distribute or exhibit items at the Fair for any reason, including their religious or political views.

23. The State Fair administration has indicated its willingness to rent booth space to ISKCON during the 1978 State Fair. ISKCON, while unwilling to confine its religious activities to a booth, has indicated its willingness to submit to the regulation of its members in their circulation throughout the fairgrounds to proselytize, distribute and sell literature, and solicit contributions. The dispute in this case, therefore, centers on to what extent the State Fair administration may regulate the activities of ISKCON during the annual Minnesota State Fair.

Executed this 31st day of July, 1978.

By /s/ JAMES A. PAYNE
Attorneys for Plaintiffs

By /s/ KENT G. HARBISON
Attorneys for Defendants

1977 MINNESOTA STATE FAIR

AUG. 25TH - SEPT. 5TH

	BLOCK
Administration Office	33
Administration Park	34
Advance Sale Ticket Office	43, 49
Aerial Thrill Drive	48
Agriculture-Horticulture Bldg.	41
Ala Chamoni Mdse. Co.	30
Amazing Dogs	28
Antique Car Museum	33
Arcade Bldg.	42
Art Gallery	28
Baldwin Hall	33
Bandstand	32
Bay and Horse Dept.	34
Beef Barn	51
Beef Guild	9
Bird House Bldg.	37
Bombardier Corp.	48
Bowen Place	27
Bus Parking	27
Butterfly Building	34
Bus-Taxi Terminal	49
Campgrounds	17
Carnival Grounds	40
Carnival	39
Cattle Barn	51
Chick Barn	34
Child Care Center	36
Coliseum Welcome Arch	25
Coliseum	25
Commentary	42
Creative Activities Bldg.	32
Crossroads Chapel	33
Dairy & Animal Products Bldg.	42
Delta Dairy Co.	31
D.F.L. Headquarters	31
Dispatch-Pioneer Press Bl. Pavil.	37
Dog Exhibit	28
Eastern Bus Driving Rails	36, 36
Earth Theatre	43
Exit Ramp	28
Education Bldg.	32
Electric Office	33
Employment Office	33
Epiphany Church Dining Hall	44
Falcon Heights United Church Dining Hall	36
Farmer Museum	41
Farm Machinery	14, 15, 16, 19, 20, 21, 22, 24, 26, 29, 30, 31, 41, 42, 50, 51
Fine Arts Exhibit	32
Floral Displays	43
Food Bldg.	33
Foreign Bldg.	33
Ford Motor Co.	31
4-H Club Exhibit Bldg.	36
4-H Club Livestock	52
FFA Barn	44
FFA Exhibit	33, 42, 44, 51, 53

	BLOCK
Gas Office	33
Giant Slide	36
Gloria Dei Lutheran Church Dining Hall	35
Grain Terminal Assoc.	34
Grain Island and Weather	19
Grandstand Ticket Office	28
Grandstand	28
Fireprotection	44
Greenly Bldg.	42
Grounds Supt. Office	33
Hamline Methodist Church Dining Hall	39
Hardwood For Hire Low-Mower To-ophelmer	39, 53
Parking	38, 40
Exemptions	19, 20, 28, 30, 33, 34, 44, 48, 50
Hillsmith's Barn	38
Homefield Aces of Thrill Drive	48
Haunted House	47
Heritage Square	37
Horse Improvement Bldg.	31
Horse Barn	41
Horse Barn Annex	41
Horse Show	50
Horticulture-Agriculture Bldg.	43
Hospattah Lutheran Church Dining Hall	36
House of Labor	30
Hudson Bldg. Co.	31
Ice Servers	27
International Harvester	19
Jehovah Lutheran Church Dining Hall	35
Judging Arena	52
KDAM Radio (R)	28
KUVO Radio (A)	33
KMSP-TV (B)	37
KSTP-TV (C)	10
KUOM Radio (F)	33
Kiddieland	37

	BLOCK
La Leche League	38, 32, 36
Lindsay Brothers Co.	21
LP Gas Bldg. (Hall of Flame)	30
Machinery Hall	26
Machinery Hill	24
Machinery Park	23
Maiden Service	31
Marion Manufacturing Co.	30
Massey Ferguson, Inc.	24
Meat Exhibit	48
Medical Aid Station	33
Merchandise Mart	34
Merry-Go-Round	44
Mission Village	47
Mobil Oil	40
Mom Farm Bureau Federation	36
Minnesota Farmers Union	31
Modern Living Bldg.	34
Model Railways	36, 44
Monorail Guard	18
Natural Resources	43
Northrop Auditorium	44
"Ohlsons" Cottage	46
Old Mill	44
Olson Bldg. Co.	24
Penny Arcade	39
Phone Booths	37, 39, 31, 33, 37, 39, 39, 43, 45, 47
Parkland	44
Plaza Park	37
Polo Field	22, 46
Post Office	34
Poultry Bldg.	42
Prime Stock House	24
Publicity Dept.	33
Race Dept. Office	37
Republican Headquarters	44
Rest Area	44

	BLOCK
Restrooms	13, 17, 18, 24, 26, 27, 28, 30, 37, 37, 34, 35, 36, 37, 38, 40, 41, 42, 44, 45, 46, 50, 51, 52
Robinson's Cafeteria	32
St. Anthony Park Church Dining Hall	39
St. Bernard's Church Dining Hall	34
St. John's Church Dining Hall	33
St. William's Church	18
Salem Lutheran Dining Hall	18
Sanitarian Dept.	28
Seamen Cinema Bldg.	44
Service Bldg.	33
Sheep Barn	42
Sign Shop	36
Skateboard Park	13
Space Rental Office	33
Space Needle	32
Star and Tribune (Minneapolis)	37
State Department Exhibits	18
Swine Barn	52
Swiss Sky Ride Terminals	37, 45
Taxi-Bus Terminal	49
Terminal Planners	27
Ticket Administration	27
Tickets-Advance Sale	43, 49
Treasurer's Office	33
Union Exhibits	30
Varied Industries Exhibits	28
WCCO-TV (F)	37
WCCO-Radio (G)	44
WTCN-TV (I)	44
White Equipment Co.	31
Willy Wonka	35
Youth Camp	44

(Caption)

SECOND AFFIDAVIT OF JOSEPH BECA,
a/k/a NAIKATMA

JOSEPH BECA, being first duly sworn, deposes and states the following:

1. My religious name is Naikatma, and I have been a member of ISKCON for about five years. During the 1977 Minnesota State Fair I was in charge of the ISKCON temple in Minneapolis. I am currently affiliated with the ISKCON temple in St. Louis, Missouri.

2. I engaged in *Sankirtan* on five or six days at the 1977 Minnesota State Fair. On each day, an identification badge, identifying me as a member of ISKCON, was attached to my person or to my bookbag. While I was at the fair, I observed on several occasions individuals distributing slips of papers to fairgoers. Those slips of paper which I read in effect stated that fairgoers might be approached by roving solicitors, that the State Fair neither licensed or sanctioned the solicitors, and that complaints against solicitors could be filed with the Fair Administration.

3. I was also on numerous occasions harassed by individuals wearing state fair badges, who yelled at me, accused ISKCON members of being "rip-offs," and interrupted my conversations with fairgoers to discourage them from speaking with me or from contributing to ISKCON. On another occasion, at the main entrance, I was taken to the police station near the Administration Building by a police officer who had been directing traffic nearby. On that occasion, he stopped directing traffic, walked several hundred feet to where I was standing and talking with a couple, and accused me of selling something. I replied that I was merely distributing literature and soliciting donations. When the officer asked the couple

with whom I was speaking whether I had been selling them something, the couple shook their heads "no." At this time, I also showed the officer a copy of the temporary injunction issued by Judge Abramson. After reading the injunction, the officer made me accompany him to the police station where I was detained for 15 or 20 minutes before being permitted to go about my business.

4. As an elder devotee of the Minneapolis temple, I spoke with other members of the Minneapolis temple about the meaning of the injunction issued by Judge Abramson and the proper methods of solicitation at the State Fair. I attempted to make clear to those other devotees that they should not be so aggressive as to disturb or annoy people, to be insistent with persons who stated that they were not interested in speaking with us, and not disrupt or obstruct traffic. I also attempted to make clear to the other devotees that literature, flags, or flowers which had been given to fairgoers should not be taken back if the fairgoers desired to keep them, even though they also chose not to contribute to ISKCON. I also attempted to make the devotees aware that they were subject to all laws regarding the conduct of individuals in public places, such as theft, fraud, assault, and blocking traffic. In my affiliations with other temples, it has been my experience that this type of instruction is common.

Further affiant saith not.

Dated:

JOSEPH BECA

Subscribed and sworn to before me this —— day of ——, 1978. — ————————, Notary Public.

(Caption)

AFFIDAVIT OF THOMAS KERR, a/k/a GOPAL

THOMAS KERR, being first duly sworn, deposes and states the following:

1. My religious name is Gopal and I have been a member of ISKCON since 1975. I was present at the 1977 Minnesota State Fair for four or five days to engage in the religious practice of Sankirtan. At that time I was affiliated with the ISKCON temple in Minneapolis. I am presently affiliated with the ISKCON temple in St. Louis, Missouri.

2. On numerous occasions when I entered the fair, the individual taking tickets would give to me a flier which stated that fairgoers might be approached by roving solicitors, that the fair neither licensed nor sanctioned them, and that complaints against them could be filed with the fair administration. On several occasions, I also noted individuals who appeared to be state fair employees handing out similar fliers at information booths and concession areas. On several occasions, I also noticed that individuals, who appeared to be state fair employees, would begin to distribute similar fliers to fairgoers in areas where I or my fellow ISKCON members were proselytizing or distributing literature.

3. On one occasion, between the administration building and the bandstand, two individuals who appeared to be about 18 years old and stated that they were state fair employees, grabbed some flowers from me and kept them until I threatened to call the police. One of them tried to knock off my hat, and then both stood a short distance away from me while I attempted to distribute a religious book to someone and screamed obscenities at me until I left the area.

4. On September 2, 1977, near the corner of Minnesota and Chambers, an individual from concessions booth No. 178

assaulted me by shoving, hitting me with his fists, and kicking me as I stood on the corner about ten yards from any concession booth. He threatened to "break my neck" on the plea that ISKCON members were distributing books without official permission.

5. On the same day, a few hours later, I asked the state fair security officer, Badge No. 578, to protect me from a man who had been harassing me by yelling at me, following me, and physically pushing me, though I had never at anytime approached him. The officer refused to aid me, and instead told me that I was not supposed to be bothering people by passing out books and flags.

6. On September 3, 1977, as I was walking across the Liggett and Judson intersection alone and was not engaged in any distribution activities, an ice truck which was driven by a black haired young man and which appeared to be traveling at about ten miles per hour almost hit me. When I jumped out of the way and asked the driver what he was doing, he said that he was trying to run me over and that a policeman he had just spoken with had told him that the Hare Krishna's were not "legal" at the fair. The license plate number of the vehicle was "07311" and I had often observed the same driver delivering ice on the fair grounds.

7. In my performance of Sankirtan at the 1977 state fair, I always understood that I should not be so aggressive as to disturb or annoy people, that I should not be insistent with persons who stated that they were not interested in speaking with me, and that I should not obstruct traffic. I also understood that I was subject to all laws regarding the conduct of individuals in public places, such as theft, fraud, assault, and blocking traffic. I also understood that I should not take back literature or greeting gifts from fairgoers to whom I had

given them, if the fairgoers desired to keep them, even if they did not wish to contribute to ISKCON. To the best of my knowledge I complied with all these principles during the 1977 Minnesota State Fair.

5. The above is true to the best of my information, knowledge, memory, and belief.

Further affiant saith not.

Dated:

(Caption)

AFFIDAVIT OF DAVID C. EWERT

David C. Ewert, being first duly sworn, deposes and states the following:

1. I reside at 5920-83rd Parkway North, Brooklyn Park, Minnesota with my wife and family. I am 35 years old and I am self-employed as a manufacturer's representative. Neither I nor any member of my family is or ever has been a member of the International Society for Krishna Consciousness, and neither I nor any member of my family is or ever has been associated in any other way with that religion.

2. On or about September 9, 1977, my wife and I were visiting the Minnesota State Fair. In front of the Midway, near the children's rides, I was politely approached by a young man who gave me a flower and stated that he was collecting money for a religious cause. When I inquired, he identified himself as a member of the International Society for Krishna Consciousness, or the "Hare Krishna" religion.

3. During the course of my conversation with the young man, we were approached by another individual who attempted to discourage me from giving a donation to the ISKCON member, and told me that any funds that I might donate would not really go to support religious purposes. I informed this

individual that I did not wish him to interfere with my conversation with the ISKCON representative. After I gave a donation of $1.00 or so to the ISKCON member, however, the same individual returned and belligerently asked me if I knew the organization to which I was donating. I replied that I did. Before ending his conversation with me, the ISKCON member gave me a book of a religious nature which was clearly worth more than the donation that I had given him.

4. Later that same day, as my wife and I were leaving the Natural Resources building (the building housing the park rangers' exhibit), a young woman, who was distributing strips of paper, noticed the ISKCON flower which my wife was still holding, approached us, and asked from whom we had received the flower and whether it had been given to us inside the building. We replied that we had not received it inside the building and that it had been given to us by a representative of ISKCON. Because of her concern, we asked her whether anything was wrong. She told us that ISKCON had been offered a rental booth by the State Fair Administration, but unlike other religious organizations, insisted on circulating throughout the fairgrounds to talk with people and solicit funds. She then gave us a slip of paper, a copy of which is attached to this affidavit as Exhibit A, and encouraged us to file any complaints against ISKCON with the State Fair Administration. I received the distinct impression from this young woman that she was soliciting complaints against ISKCON on behalf of the State Fair. I feel that by distributing these slips of paper soliciting complaints, the State was establishing an attitude among fairgoers that it was appropriate to harass members of the ISKCON religion, and I strongly feel that it is a wrong policy for any governmental body to engage in such activity.

The above is true to the best of my information, knowledge, memory and belief.

DAVID C. EWERT

Subscribed and sworn to before me this 2nd day of August, 1978. — James A. Payne, Notary Public, Hennepin County, Minnesota. My commission expires Feb. 9, 1983.

EXHIBIT A TO EWERT AFFIDAVIT

Good Day Ladies and Gentlemen. During your visit to the Minnesota State Fair, you may be approached by persons who walk about the grounds distributing items and soliciting contributions. The State Fair neither licenses nor sanctions such activity. We hope that your visit to the Exposition will be an enjoyable one. Therefore, if you have any complaints, compliments or comments concerning solicitations or any other activity on the Fairgrounds, we would encourage you to contact our Administration Building on Cosgrove Street near the Bandshell. Thank you and have a good day.

(Caption)

SECOND AFFIDAVIT OF MICHAEL HEFFRON

State of Minnesota

County of Ramsey—ss.

MICHAEL HEFFRON, being first duly sworn upon oath, deposes and says as follows:

1. I am the Secretary-General Manager of the Minnesota State Fair.

2. Having been appointed to my current position by the Board of Managers of the Minnesota State Agricultural Society, I am responsible for the day-to-day overall supervision and management of the annual Minnesota State Fair on the state fairgrounds in Ramsey County, Minnesota.

3. The space, including permanent buildings and structures, occupied by State Fair exhibitors and concessionaires generally covers about 125 acres, with the bulk of these persons or groups concentrated in an area about one-third of the total area.

4. During 1977, 1,299,017 visitors attended the annual Minnesota State Fair. In addition there were approximately 1,300 exhibitors and concessionaires who rented fairground space at the 1977 State Fair.

5. The Minnesota State Fair has attempted to treat all applicants equally and uniformly in determining who is permitted to rent or obtain space for the sale or display of their products, books, wares and other materials. This determination is made on a "first-come, first-served" basis.

6. The foregoing policy has been conveyed to plaintiffs by me and my staff. I have informed representatives of the International Society for Krishna Consciousness that they would be permitted to sell or distribute materials and solicit donations at the 1978 Minnesota State Fair (August 24-September 4, 1978) on the condition that they apply for booth space to be rented at a nominal charge.

7. In conjunction with organizing and managing the annual State Fair, my staff and I have the responsibility to insure speedy and adequate fire, safety, health and welfare protection for all concessionaires, exhibitors, employees and the one million-plus persons who attend the fair. The congested conditions on the enclosed fairgrounds during the annual State Fair makes this responsibility burdensome and critical.

8. In recent years during the annual State Fair there have been approximately 65-75 arrests and investigations of persons allegedly involved in violation of state criminal statutes (*e.g.*, assaults, controlled substance abuses and thefts) and

state juvenile proceedings. In addition, the State Fair staff must act promptly to investigate and provide health care to at least twice as many persons who receive injuries on the fairgrounds.

9. During the five years prior to 1978 the average annual State Fair attendance (excluding exhibitors, concessionaires and performers) has been 1,320,000. The average week-day attendance has been 115,000, and the average attendance on Saturday and Sunday has been 160,000.

10. For many years the State Fair has rented booth or similar fixed spaces to numerous groups and persons who use such space purportedly to espouse religious, political and other ideological views. There have been no exceptions to this rule. Attached hereto as Exhibit "A" is the most recent accurate list of only some of the foregoing organizations and their respective rental fees paid for the 1978 State Fair.

11. The list contained on Exhibit "A" does not include several other groups which traditionally have occupied space on the Minnesota State fairgrounds and ostensibly would claim their activities to be protected by First Amendment freedoms of speech, press and religion. Examples include Minneapolis-St. Paul newspapers and broadcast media, all of which have confined their reporting and dissemination of news to fixed rental locations on the fairgrounds.

12. The State Fair does not discriminate with regard to leasing booths or similar space to numerous groups and persons who use such space to espouse religious, political, and other ideological views, no matter how unpopular. An example of this is the fact that in 1977, booth space was leased to the Christian Research Group, Inc., an avowedly anti-semitic and anti-black organization.

13. Rental fees are charged equally to State Fair exhibitors and concessionaires, based upon a flat rate per foot of frontage for each space allocation.

14. With respect to plaintiffs herein, the policy of the Minnesota State Fair is to treat them in the same manner as all concessionaires and exhibitors, whether strictly commercial or purely religious.

15. It is not the policy of the Minnesota State Fair to arrest and prosecute criminally members of the International Society of Krishna Consciousness for violations of the foregoing rental policy. I am not aware of any such arrest or prosecution ever having occurred at the fairgrounds. The policy has been merely to request (and evict, if necessary) violators to leave the fairgrounds.

16. However, in 1977, 234 complaints were filed against plaintiffs as a result of their activities on the fairgrounds. These complaints indicate among other things that plaintiffs were misrepresenting themselves as to the type of organization that they represented. At times, for example, according to the complaints, they represented themselves as being representatives of the State Fair itself. The complaints also indicate that members of ISKCON represented themselves as being members of the Division of Natural Resources and as solicitors of funds for the benefit of agricultural schools for underprivileged children. Other complaints also indicated that the plaintiffs were in fact *selling* their articles, such as American flags and flowers, in direct violation of the Order of this Court dated August 26, 1977. Other complaints also state that at times plaintiffs' organization solicited and received funds from minors attending the State Fair. These minors were in many cases not accompanied nor counseled by a parent or guardian at the time of solicitation, according to some com-

plaints. Copies of some of the complaints filed against plaintiffs' organization are attached hereto as one packet, Exhibit "B".

17. The Minnesota State Fair is willing to rent or provide exhibit space for plaintiffs at a fixed location on the fairgrounds during the 1978 State Fair. Under our proposal, all sales or financial transactions and distribution of materials would be required, as they are for all fair exhibitors, to be limited to the aforesaid location. The estimated cost to plaintiffs for the rental of exhibit space would be approximately $175.00 for the year 1978.

18. Based upon my 20 years' experience with the Minnesota State Fair and information from my counterparts at other state fairs, I believe that allowing an unlimited number of ISKCON devotees to have access to *all* public areas of the fairgrounds to dance, sing or chant or to sell, solicit, proselytize and distribute flowers, printed materials and other products without restriction would pose an imminent and serious threat to other State Fair exhibitors and concessionaires and to the one million or more persons who attend the Fair during a 12-day period. Such unlimited freedom would greatly increase the Fair staff's difficulties in maintaining crowd control, in providing ready access for fire, safety, health and other emergency vehicles, in curbing deceptive solicitations on the fairgrounds, and in preventing various types of criminal activity including pickpocketing, purse-snatching, etc.

19. Furthermore, based upon my experience as a fair administrator, I believe that allowing ISKCON devotees to have the full relief they request would encourage other similar groups or persons (including those who have been given and those who have been denied rental space for the 1978 State Fair) not to pay rental fees and to undertake the same ac-

tivities now and at future fairs. Such a result would not only have a major negative impact on fair revenues but more importantly, would make the fairgrounds almost unmanageable, all to the detriment of the health, safety, and welfare of persons attending the State Fair and other exhibitors and concessionaires.

Further affiant sayeth not.

MICHAEL HEFFRON

Subscribed and sworn to before me this 27th day of July, 1978. — Kenneth R. Wenzel, Notary Public, Ramsey County, Minn. My commission expires April 3, 1984.

EXHIBIT

LIST OF EXHIBITORS OF A POLITICAL, RELIGIOUS, EDUCATIONAL NATURE CONTRACTED FOR SPACE AT THE 1978 MINNESOTA STATE FAIR JUNE 20, 1978

ABORTION RIGHTS COUNCIL OF MINNESOTA: $230.00
Educational Material on Abortion

AMBASSADOR CULTURAL FOUNDATION: $322.00
Magazines

AMERICAN ASSOCIATION OF RETIRED PERSONS: $253.00
Literature on Retirement Association

AMERICAN HEART ASSOCIATION: ..... $ 50.00
Heartmobile

AMERICAN PARTY OF MINNESOTA: $414.00
Political Information

CHRISTIAN BUSINESS MEN'S ASSOCIATION: $644.00
Christian Oriented Books, Cards and Tapes

CHURCH OF CHRIST: $506.00
Literature, Tracts

D.F.L. STATE CENTRAL COMMITTEE: $490.00
Political Information

FAITH BROADCASTING NETWORK, INC.: $322.00
Christian Information and Brochures

GRAND LODGE OF MINNESOTA—
A.F. & A.M.: $460.00
Public Relations Information

INDEPENDENT REPUBLICANS OF
MINNESOTA: $490.00
Political Information

LEGION OF MARY—ST. PAUL: $414.00
Catholic Information and Literature

MARCH OF DIMES: $225.00
Information on Birth Defects, Health and Nutrition

MINNESOTA CONFERENCE OF
7th DAY ADVENTISTS: $828.00
Health and Literature and Tests

MINNESOTA FOSTER PARENTS
ASSOCIATION: $207.00
Information

SALVATION ARMY: $326.00
Information

TWIN CITIES BAPTIST MESSIANIC
WITNESS: $276.00
Bibles and Christian Literature

WORLD HOME BIBLE LEAGUE: $276.00
Bible Study Courses, and Tracts

VETERANS OF FOREIGN WARS: $207.00
Veterans Information

LIST OF CONCESSIONAIRES OF A POLITICAL, RELIGIOUS, EDUCATIONAL NATURE CONTRACTED FOR SPACE AT THE 1978 MINNESOTA STATE FAIR
JUNE 20, 1978

ASSOCIATION OF EVANGELICAL OF GREATER ST. PAUL: $300.00
Religious, Films, Literature, Records, Etc.

ASSOCIATION OF NON-SMOKERS RIGHTS: $290.00
Information and Materials on Non-Smokers Rights

CHRISTIAN EDUCATIONAL SERVICE: $730.00
Bible Cassettes, Bible Stories, Bibles

FRIENDS OF ANIMAL ADOPTIONS, INC.: $348.00
Literature on Animal Adoption & Animal Related Items Such as, Jewelry, Posters, Stationary, Etc.

INDEPENDENT REPUBLICANS OF MINNESOTA: $50.00
Jewelry and Miscellaneous G.O.P. Articles

LOGOS BOOKSTORE: $522.00
Christian Books, Jewelry, Records, Posters, Plaques

LUTHERAN COLPORTAGE SERVICE: $522.00
Sunday School Supplies, Religious Jewelry, Tapes, Calendars, Bibles, Photos, Etc.

MINNESOTA BAPTIST ASSOCIATION: $348.00
Christian Books and Records

MINNESOTA CITIZENS CONCERNED FOR LIFE: $290.00
Pro Life Buttons, Brochures, and Literature

MINNESOTA CONFERENCE OF 7TH DAY ADVENTISTS: $615.00
Food Concession

MINNESOTA D.F.L. STATE CENTRAL COMMITTEE: $50.00
Political Literature and Buttons

MINNESOTA FUND FOR ANIMALS: $261.00
T-Shirts, Posters, Books, Etc.

NORTH HEIGHTS LUTHERAN CHURCH: $740.00
Christian Books, Buttons, Tapes, Tracts, Etc.

O.U.R.S., INCORPORATED: $261.00
Books, Cards, Craft Items

POLISH AMERICAN CONGRESS OF MINNESOTA: $261.00
Polish Literature, Periodicals, Stationary & Candy With Polish Themes

ST. PAUL HUMANE SOCIETY: $150.00
Humane Society Public Relations, Books, Etc.

SAVE OUR UNWANTED LIFE, INC. (S.O.U.L.): $261.00
Pro-Life Handbooks, Records, Buttons, Etc.

SCHOOL FOR SOCIAL DEVELOPMENT: $580.00
Handcrafted Items Made by Mentally Handicapped and Cerebral Palsied Youths and Adults

U. S. — CHINA PEOPLES FRIENDSHIP ASSOCIATION: 10%
Artifacts and Books on People's Republic of China

CHRISTIAN RESEARCH: $250.00
Patriotic Books and Information

CHILDREN'S ONCOLOGY SERVICES OF THE UPPER MIDWEST: $232.00
Information on Children with Cancer, Calendars, Cards and Information

(Caption)

AFFIDAVIT OF MICHAEL GENE KROGNESS

State of Minnesota

County of Hennepin—ss.

MICHAEL GENE KROGNESS, being first duly sworn, deposes and states as follows:

1. My name is Michael Gene Krogness. My permanent residence is 8801 Elliot Avenue South, Bloomington, Minnesota. I am currently a student in my third year at the University of Minnesota.

2. On August 30, 1977, I attended the Minnesota State Fair. At approximately 5:30 p.m. at or near the Grandstand sidewalk on the Minnesota State Fairgrounds, I was approached by a member of the plaintiff-ISKON group, although he represented himself as being with the Division of Natural Resources of Minnesota and solicited me for a monetary contribution. I refused to contribute.

Further affiant sayeth not.

MICHAEL GENE KROGNESS

Subscribed and sworn to before me this 22nd day of September, 1977. — Ann L. Behning, Notary Public, Hennepin County, Minn. My commission expires Oct. 25, 1980.

(Caption)

AFFIDAVIT OF WILLIAM PADDOCK

State of Minnesota

County of Ramsey—ss.

WILLIAM PADDOCK, being first duly sworn, deposes and states as follows:

1. My name is William Paddock. My permanent address is 1672 Euclid Avenue, St. Paul. I am currently employed as a teacher at Highland Park School.

2. During the duration of the 1977 Minnesota State Fair (August 25 through September 6), I was employed by the State Fair in the Space Rental Office. I also handled complaints received by the State Fair.

3. On August 26 at approximately 6:00 p.m. at or near the corners of Commonwealth and Nelson while I was walking on the State Fairgrounds, the following incident occurred: I was walking with John Bettcher east on Commonwealth Avenue. We were approached by a person whom upon information and belief is a member of the International Society of Krishna Consciousness. He presented us with a small American flag and introduced himself as a teacher who wanted a donation for wayward and handicapped young people. He then presented us with a book about Hinduism and asked for a donation. He was asked if we could keep the book without the donation but he replied no. He claimed he had to make money. We repeated the question twice more, but he said no both times.

Further affiant sayeth not.

WILLIAM PADDOCK

Subscribed and sworn to before me this 19th day of September, 1977. — Lorraine D. Madzo, Notary Public, Ramsey County, Minnesota. My commission expires Sept. 17, 1981.

(Caption)

AFFIDAVIT OF ELIZABETH ANN MURPHY

State of Minnesota

County of Ramsey—ss.

ELIZABETH ANN MURPHY, being first duly sworn, deposes and states as follows:

1. My full name is Elizabeth Ann Murphy. My permanent residence is Rural Route No. 1, Lodi, Wisconsin. I am currently a senior at the University of Minnesota.

2. During the duration of the 1977 Minnesota State Fair (August 25-September 6), I was employed full time as an information guide by the Minneapolis Star-Tribune. I was assigned and worked at the Star-Tribune information booth located on Minnesota Avenue at the base of the Grandstand.

3. That on or about 12:30 p.m. on August 31, 1977, at the Star-Tribune booth of the State Fair I, along with David Hunt, of 5933-29th Place North, Minneapolis (a co-worker) had a conversation and encounter with a member of the plaintiff-ISKON group, the substance of which is as follows:

After watching the ISKON member approach various fair goers, we asked him what he was collecting for and what his religion was about. He was reluctant to answer our question. He mumbled something about kids with drug problems and then asked us if we had heard of Bhagavad-gita. We said we had heard the name but knew nothing about it. He said "Read this," and offered us a book which Dave Hunt accepted. Dave Hunt leafed through the book and both of us expressed our interest in its content. We said that we would read it. Then the individual asked for a contribution. Hunt said that he would like to know more about the book before he would make a donation. The ISKON individual said that he didn't have time to talk to us about it. I said that I didn't want to contribute to an activity or a religion that I knew nothing about. He then took the book back and put it under this arm. I was surprised because I thought he had given it to us. As he was about to leave, I made a comment about his not letting us have the book free. He shrugged off the comment and said that "yesterday" he had given away a book free.

4. On numerous occasions I saw members of the ISKON group taking money from children under fifteen years old who seemed very confused and reluctant to give their money.

5. On numerous occasions I saw members of the ISKON group put a small, paper American flag or a flower into a passerby's hand or lapel or pocket only to take back the flag or flower if a donation was not made.

Further affiant sayeth not.

ELIZABETH ANN MURPHY

Subscribed and sworn to before me this 7th day of September, 1977. — Deborah L. Kessler, Notary Public, Ramsey County, Minnesota. My commission expires Nov. 27, 1982.

(Caption)

AFFIDAVIT OF DWAYNE BRONK

State of Minnesota

County of ————————ss.

I, DWAYNE BRONK, being first duly sworn upon oath, depose and state as follows:

1. My name is Dwayne Bronk. My residence is in Apple Valley, Minnesota. I am employed by the Apple Valley Police Dept.

2. During the duration of the 1977 Minnesota State Fair (Augus. 25-September 6), I was employed full-time as a police officer at the Fair by the Minnesota State Fair.

3. On or about 10:48 a.m. on August 29, 1977, the following incident took place. I, along with Officer Kurtz, also employed as a police officer by the State Fair, had several people approach our squad car in the parking area north of the Big Kahurra Skateboard Park and state that they were being harassed and badgered by two male parties who were passing out flags and demanding money. The complainants pointed out the two parties, later identified as Peter Syers and David McDonald, both members of the International Society for Krishna Consciousness, who were passing out flags and de-

manding money. We observed these two people approach cars, walk up to the driver, hand them a flag and demand a donation. The two people would stand by the doors of the cars and not let people out of them. Officer Kurtz and I also heard these two persons tell the people they were soliciting that they were collecting money which would be turned over for the benefit of the State Fair.

FURTHER AFFIANT SAYETH NOT.

Dated: Sept. 23, 1977.

DWAYNE BRONK

Subscribed and sworn to before me this 23rd day of September, 1977. — Jo Ann Hughes, Notary Public, Dakota County, Minnesota. My commission expires July 24, 1981.

(Caption)

AFFIDAVIT OF GLEN LARSON

State of Minnesota

County of Ramsey—ss.

GLEN LARSON, being first duly sworn upon oath, deposes and states as follows:

1. My name is Glen Larson. My permanent residence is 8565 Granada Avenue South, Cottage Grove, Minnesota 55016. I am currently a freshman at the Northwest Bible College.

2. On September 5, 1977, I attended the Minnesota State Fair. On that date on or about 12:40 p.m. at or near the intersection of Cooper and Commonwealth Streets on the State Fairgrounds, the following incident took place: A Hare Krishna representative gave me a flower, saying it was free but that he wanted a donation. When he found out I didn't have money, but that I wanted to keep the flower, he called me a thief and other various names. It did not seem like he was ask-

ing for donations, but rather that he was selling the flower. He said it was for developing character in young people and teaching them the fear of God.

Further affiant sayeth not.

GLEN LARSON

Subscribed and sworn to before me this —th day of September, 1977. — Jean A. Price, Notary Public, Washington County, Minnesota. My commission expires Aug. 17, 1983.

OPINION OF MINNESOTA SUPREME COURT

INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS, INC., et al.,

Appellants,

49526

vs.

MICHAEL HEFFRON, Secretary and Manager of the Minnesota State Agricultural Society Board of Managers, et al.,

Respondents.

Endorsed
Filed August 18, 1980
John McCarthy, Clerk
Minnesota Supreme Court

Peterson, J. Dissenting, Todd, J., Sheran, C.J., and Scott, J. Took no part, Amdahl, J.

SYLLABUS

Minnesota State Fair Rule 6.05, which is interpreted by the Minnesota state agricultural society to restrict to fixed locations on the fairgrounds all sales and distributions of merchandise, is unconstitutional as applied to members of a religious society who wish to distribute and sell religious literature and solicit donations for religious purposes throughout the public areas of the fairgrounds.

Defendants are to be enjoined from enforcing Rule 6.05 against members of plaintiff International Society for Krishna Consciousness, Inc.

Reversed and remanded with directions.

Heard, considered, and decided by the court en banc.

OPINION

PETERSON, Justice.

Plaintiffs International Society for Krishna Consciousness, Inc. (ISKCON), a religious organization, and Joseph Beca, a member of ISKCON, challenge on this appeal the trial court's refusal to declare Minnesota State Fair Rule 6.05 unconstitutional and enjoin permanently the rule's enforcement. We conclude that enforcement of Rule 6.05 against members of ISKCON would violate their constitutionally guaranteed right to free exercise of religion.

Plaintiff ISKCON maintains temples and schools throughout the world and is organized under the laws of this state as a nonprofit religious corporation. Members of ISKCON espouse the doctrines of Krishna Consciousness, a branch of the Hindu religion. Krishna Consciousness requires its followers to perform an evangelical ritual known as Sankirtan. The performance of Sankirtan consists of going out into public places to distribute or sell religious literature and to solicit donations for the support of Krishna Consciousness. The declared purposes of Sankirtan are to spread the doctrines of Krishna Consciousness, to attract new members to ISKCON, and to gain financial support for ISKCON's religious and educational activities.[1]

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[1] This case is presented to us upon stipulated facts. The parties' stipulation provides in part: "In performing Sankirtan, ISKCON devotees often greet members of the public by giving them flowers or small American flags, but for the purpose of this lawsuit they seek only to solicit contributions for their literature and their religious activities, and not for these greeting gifts. They do not seek to dance, chant, or to engage in any other potentially disruptive or disorderly conduct."

Plaintiff Joseph Beca is an ISKCON priest and the head of ISKCON's Minneapolis temple. Beca and other members of ISKCON wish to practice Sankirtan at the Minnesota state fair, an event which takes place from late August through early September of each year. Rule 6.05, as promulgated by the Minnesota state agricultural society (the society), a governmental body which has control of the state fairgrounds and responsibility for administration of the state fair, prohibits the sale or distribution on the fairgrounds of "any merchandise including printed or written material except under a license issued [by] the Society and/or from a duly licensed location."[2] The state fair's policy in applying Rule 6.05 has been to restrict all sales and distributions of materials at the fair to fixed locations on the fairgrounds. In most instances these fixed locations take the form of booths or buildings rented from the society by sellers and distributors.[3] Plaintiff

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[2] Minn. Stat. § 37.16 (1978) authorizes the society to make "all bylaws, ordinances, and rules, not inconsistent with law, which it may deem necessary or proper for the government of the fairgrounds and all fairs to be held thereon, and for the protection, health, safety, and comfort of the public thereon" and provides that "[t]he violation of a bylaw, rule, or ordinance promulgated by the society is a misdemeanor."

The president and secretary of the society are authorized to appoint "special constables or deputies * * * for the regulation of the Minnesota state fairgrounds" who "shall have and exercise upon the [state fairgrounds] all the power and authority of peace officers and, in addition thereto, may, within these limits, without warrant, arrest any person found violating any law of the state, or any rule, regulation, bylaw, or ordinance of the society, and may summarily remove the persons and property of such offenders from the grounds and take them before any court of competent jurisdiction to be dealt with according to law." § 37.20.

[3] The board of managers of the society, the members of which are defendants in this action, is vested with the management and control of the affairs of the society. § 37.04, subd. 1. One of the society's duties is to hold an annual fair upon the fairgrounds. § 37.15.

Defendant Michael Heffron, as secretary of the board of managers of the society and manager of the state fair, has responsi-

ISKCON has been notified that its members who practice Sankirtan at the fair must confine all distributions and sales of religious literature and solicitations of donations to a rented booth.

Members of ISKCON are unwilling to have their practice of Sankirtan so restricted. They wish to distribute and sell religious literature and solicit donations throughout the areas of the fairgrounds that are open to the public. In August 1977, plaintiffs, on behalf of themselves and all members of ISKCON, commenced this action under 42 U.S.C. § 1983 (1979) and Minn. Stat. § 555.01 (1978) for a judgment declaring that Rule 6.05 violates the First and Fourteenth Amendments of the United States Constitution. Plaintiffs also asked the trial court to enjoin defendant state officials from enforcing Rule 6.05 against members of ISKCON who practice Sankirtan in public areas of the fairgrounds.

The trial court issued a temporary restraining order prohibiting defendants from preventing members of ISKCON from proselytizing, distributing religious literature, or soliciting donations for religious purposes in public areas of the fairgrounds during the 1977 state fair. The trial court, however, enjoined members of ISKCON from "selling or inducing others to purchase" religious literature or items at any location within the fairgrounds other than one rented for that purpose. The parties thereafter made cross-motions for

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bility for supervising all activities at the state fair and for implementing and enforcing all state fair rules and regulations.

Defendant Harveydale Maruska, as president of the board of managers of the society, has responsibility along with defendant Heffron for appointing peace officers to enforce all state laws and all rules, regulations, bylaws, and ordinances of the society on the fairgrounds.

Defendant Warren Spannaus, the attorney general of the State of Minnesota, directs a member of his staff to prosecute those arrested at the fairgrounds for violations of state laws or of rules, regulations, bylaws, and ordinances of the society.

summary judgment based upon stipulated facts. By an order dated August 18, 1978, the trial court granted defendant's motion for summary judgment and denied plaintiffs' motion.[4] This appeal ensued.

The question presented for our decision is whether it is constitutionally permissible for defendants to apply Rule 6.05 so as to require the members of ISKCON who practice Sankirtan at the state fair confine their distribution, sales, and solicitation activities to a rented booth. The First Amendment of the United States Constitution forbids the enactment of laws prohibiting the free exercise of religion.[5] The time, place and manner of religious activity may, however, be subject to reasonable and nondiscriminatory regulation if necessary to further an important governmental interest. *Cantwell v. Connecticut*, 310 U.S. 296, 303-04 (1940). Defendants concede that Sankirtan is a religious activity entitled to First Amend-

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[4] The trial court's order provides:

> IT IS HEREBY ORDERED that plaintiffs' motion for summary judgment is in all respects denied. Defendants' motion for summary judgment is in all respects granted.
>
> IT IS FURTHER ORDERED that plaintiffs are prohibited from
>
> 1) Engaging in any distribution of materials (e.g., books, flowers, flags, incense, artifacts, etc.) throughout the fairgrounds, except from rented booth space;
>
> 2) Engaging in any sales or solicitation for monetary donations throughout the fairgrounds, except from rented booth space;
>
> However, plaintiffs are permitted to:
>
> Roam throughout those areas of the fairgrounds generally open to the public for the purpose of discussing with others their religious beliefs.

[5] "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." U.S. Const. amend. I. "The Fourteenth Amendment has rendered the legislatures or the states as incompetent as Congress to enact such laws." *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

ment protection.[6] They argue that Rule 6.05, as applied by them to members of ISKCON, does not offend the First Amendment because it is a permissible regulation of the place and manner of the practice of Sankirtan.

Plaintiffs do not claim that Rule 6.05 has been applied to members of ISKCON in a discriminatory fashion. What is at issue here is the reasonableness of the rule as a place and manner regulation. The application to an individual of a governmental regulation which incidentally restricts him in the exercise of a First Amendment right is permissible only if the regulation "furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." *International Society for Krishna Consciousness, Inc. v. Conlisk*, 374 F.Supp. 1010, 1015 (N.D.Ill. 1973) (quoting *United States v. O'Brien*, 391 U.S. 367, 377 (1968)). The party urging that application of the regulation be upheld has the burden of proving that these criteria are met. *Elrod v. Burns*, 427 U.S. 347, 362 (1976). Defendants have not sustained that burden in this case.

Defendants assert that the state's interest in maintaining order at the state fair is sufficiently important to justify the application of Rule 6.05 to members of ISKCON. The state

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[6] Proselytism, the distribution or sale of religious literature, and the solicitation of donations by members of a religious organization who seek to attract new members and to generate financial support for the organization have long been considered activities protected by the First Amendment. *See Murdock v. Pennsylvania*, 319 U.S. 105, 110-11 (1943); *Cantwell v. Connecticut*, 310 U.S. at 305. For cases treating Sankirtan specifically as a bona fide religious practice, *see, e.g., International Society for Krishna Consciousness, Inc. v. Bowen*, 456 F.Supp. 437, 441-42 (S.D. Ind. 1978), *aff'd*, 600 F.2d 667 (7th Cir. 1979), and cases cited therein.

fairgrounds comprise approximately 125 acres. An average of 115,000 persons visit the fairgrounds each weekday while the state fair is in progress. On Saturdays and Sundays daily attendance averages 160,000. Approximately 1,400 exhibitors and concessionaires rented space at the 1977 and 1978 state fairs. We agree that these facts suggest a situation in which the state's interest in maintaining order is substantial. We have no doubt that Rule 6.05's requirement that all vendors, exhibitors, and concessionaires perform their functions at fixed locations furthers that interest significantly.

What defendants must demonstrate, however, is not the importance of the state's undeniable interest in preventing the widespread disorder that would surely exist if no regulation such as Rule 6.05 were in effect. Rather, they must establish the importance of the state's interest in avoiding whatever disorder is likely to result from granting members of ISKCON an exemption from compliance with the rule.[7]

It is fundamental that First Amendment rights may be restricted only for weighty reasons. We note that members of ISKCON are not prohibited from proselytizing throughout public areas of the fairgrounds. Some disorder is bound to attend this activity. We are not convinced that allowing ISKCON members to also distribute religious literature and accept money throughout public areas of the fairgrounds

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[7] If Sankirtan is to be practiced properly, the various activities included in the practice of Sankirtan must be performed in a peripatetic manner. Members of ISKCON therefore have a special claim to an exemption from Rule 6.05 on free exercise grounds. Commercial vendors of literature can make no similar claim.

Defendants argue that the facts as stipulated by the parties do not establish that Krishna Consciousness requires its followers to perform all of the activities comprising Sankirtan in a peripatetic manner. We recognize that in deciding this case we are limited by the parties' stipulation. We believe, however, that the peripatetic nature of Sankirtan is easily inferrable from the parties' explanation in their stipulation that the ritual is performed by "going out into public places."

would cause additional disruption sufficient to justify confining those activities to a booth.[8]

Even if we assume the importance of the state's interest in preventing the disorder that will result from allowing members of ISKCON to distribute or sell religious literature and receive donations in public areas of the fairgrounds, we are not persuaded that application of Rule 6.05 to members of ISKCON is essential to the furtherance of that interest. The state's interest can be adequately served by means less restrictive of First Amendment rights. Conduct that tends to create disorder on the fairgrounds may be specifically prohibited.

> [People may be prevented] from blocking sidewalks, obstructing traffic, littering streets, committing assaults, or engaging in countless other forms of antisocial conduct. Such restraints on a solicitor's manner of conduct

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[8] During oral argument in October 1979, defendant suggested an additional interest as justification for applying Rule 6.05 to members of ISKCON: the state's interest in protecting the privacy of fairgoers. This interest is insufficient as long as Sankirtan is practiced in such a way that fairgoers who wish to avoid it are able to do so. The United States Supreme Court "has not generally allowed government to suppress speech [or, presumably, other activity protected by the First Amendment] solely to protect unwilling listeners from 'offensive expression' unless substantial privacy interests have been invaded. * * * The 'privacy' interests of unwilling listeners are strongest in the home * * *. In public places an individual's privacy interests in avoiding offensive communications are generally thought insubstantial unless the person is deemed a member of a 'captive audience,' either because the person is literally not free to leave without great burden * * * or because the person is in a place where one cannot readily avoid exposure to the unwanted communication." L. Tribe, *American Constitutional Law*, 677, 677-78 n. 13 (1978).

In *Farmer v. Moses*, 232 F.Supp. 154, 162 (S.D.N.Y. 1964), the court considered the privacy rights of visitors to the New York World's Fair and stated: "[T]hose of us who pay the regular admission fee and attend the Fair cannot be totally insulated from our fellows, nor can we expect to be shielded from expressions or ideas which are unanticipated and unsolicited. An individual's right of privacy is of practical necessity limited by the rights of others when he leaves his home and ventures forth into public areas, even those which he must pay to enter."

> are characterized as after the fact prosecution, rather than a prior restraint on conduct. This type of sanction *after* the event assures consideration of the particular circumstances of the situation. Therefore, [a regulation should be aimed] at the *act* of obstruction itself rather than prohibiting solicitations on public sidewalks based on its desire to prevent obstruction and provide for the free flow of traffic.

Jones, "Solicitations-Charitable and Religious," 31 Bayler L. Rev. 53, 57 (1979). If the number of persons distributing and selling religious literature and receiving donations throughout the public areas of the fairgrounds becomes unmanageably large, a regulation to limit their number might be justified.[9] A place regulation less restrictive than Rule 6.05 might also be appropriate. For example, in *International Society for Krishna Consciousness, Inc. v. McAvey*, 450 F.Supp. 1265 (S.D.N.Y. 1978), the court refused to enjoin regulations establishing 10 areas at the World Trade Center in New York City within which only one ISKCON member at a time could solicit and prohibiting solicitations within 15 feet of certain designated places.[10]

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[9] In connection with this we note that the parties have stipulated that "ISKCON, while unwilling to confine its religious activities to a booth, has indicated its willingness to submit to the regulation of its members in their circulation throughout the fairgrounds to proselytize, distribute, and sell literature, and solicit contributions."

[10] The regulations upheld in *International Society for Krishna Consciousness, Inc. v. McAvey*, 450 F.Supp. 1265 (S.D.N.Y. 1978), are offered here only as an example. We do not intend to suggest that the same regulations would be appropriate at the Minnesota state fair. Regulations of the time, place, and manner of protected activity must be tailored to the forum in which such activity takes place. The state fair is not equivalent in character to the World Trade Center. Nor is it equivalent to an airport. *See, e.g., International Society for Krishna Consciousness, Inc. v. Eaves*, 601 F.2d 809 (5th Cir. 1979) (upholding a regulation requiring that the receipt of money by ISKCON members practicing Sankirtan at the Atlanta airport take place only at a booth).

Although we are limited by the record in this case, we recognize that an additional concern of defendants may involve the manner in which some members of ISKCON are reputed to practice Sankirtan. Like the problem of maintaining order, this problem can be solved by means less restrictive than confining ISKCON members' distribution, sales, and solicitation activities to a booth. Persons claiming to be members of ISKCON may be required to establish their identity and authority to act on ISKCON's behalf before being permitted to practice Sankirtan throughout the fairgrounds. *Cantwell v. Connecticut*, 310 U.S. 296, 306 (1940). Criminal and civil actions are available to remedy abuses such as fraud and battery in individual cases. *See International Society for Krishna Consciousness, Inc. v. Bowen*, 60 F.2d 667, 669-70 (7th Cir. 1979), *cert. den.*, 48 U.S.L.W. 3351 (1979).

In *Bowen*, the United States Court of Appeals for the Seventh Circuit affirmed the district court's order enjoining Indiana state fair officials from enforcing against members of ISKCON a policy of prohibiting peripatetic solicitation on the fairgrounds. We share the cogent expression of the First Amendment principle stated in these closing remarks of the court of appeals opinion (600 F.2d at 670-71):

> [W]e are not unmindful, as anyone cannot be who has travelled through a major airport facility in recent years, that practitioners of Sankirtan have been regarded as annoying and often downright irritating by those they approach. It is not, however, the cases in which the auditor is in agreement with that which is being expressed which reach the courts under the rubric of the First Amendment. Distaste for what is being expressed, and often absolute revulsion, appear to be the hallmarks of the exercise of First Amendment rights and probably

are the necessary contexts in which the preservation of those rights can be firmly assured.

The order of the trial court is reversed and remanded with directions that the trial court amend its order, in conformity with this opinion, to enjoin defendants from enforcing Rule 6.05 against members of ISKCON who wish to practice Sankirtan at the state fair.[11]

Reversed and remanded with directions.

TODD, Justice (dissenting in part).

I respectfully dissent in part from the majority opinion because, in my view, the portion of Minnesota State Fair Rule 6.05 which limits the sale of materials and collection of funds to a rented booth constitutes a reasonable time, place, and manner restriction which may constitutionally be applied to plaintiff International Society for Krishna Consciousness, Inc. (ISKCON).

The majority recognizes that religious activity may be subject to reasonable and nondiscriminatory time, place, and manner restrictions. In evaluating the validity of this type of restriction, a court must determine whether the regulation furthers a substantial governmental interest which has no relation to the content of the first amendment expression involved. Additionally, the restriction on the first amendment activity must be no greater than is necessary to further that governmental interest. *United States v. O'Brien*, 391 U.S. 367, 377 (1968). An application of this test requires the balancing of the competing interests involved and a consideration of

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[11] Since this writing, an opinion has been published in which the Supreme Court of Colorado, in a case virtually identical on its facts to this case, reached the same result as we reach here. *See International Society for Krishna Consciousness, Inc. v. Colorado State Fair and Industrial Exposition Commission*, —— Colo. ——, 610 P.2d 486 (1980).

the nature of the forum. *Lehman v. City of Shaker Heights*, 418 U.S. 298, 302-303 (1974); *Grayned v. Rockford*, 408 U.S. 104, 115 (1972). In his concurring opinion in the case of *Niemotko v. Maryland*, 340 U.S. 268 (1951), Mr. Justice Frankfurter summarized the four questions which have been considered by the United States Supreme Court in balancing competing governmental and first amendment interests. They are: (1) What is the interest deemed to require the regulation of speech (or other first amendment activity)? (2) What is the method used to achieve such ends as a consequence of which public speech is constrained or barred? (3) What mode of speech is regulated? and (4) Where does the speaking which is regulated take place? 340 U.S. at 282; *see also, Intern. Society for Krishna Consciousness v. Evans*, 440 F. Supp. 414 (S.D. Ohio 1977).

The restriction under consideration in this case, Rule 6.05, as applied, requires that the activities of distribution and sale of literature and the solicitation and accepting of donations be confined to a rented booth. The majority concludes that Rule 6.05, in its entirety, may not constitutionally be applied to the religious activities of members of ISKCON because a substantial governmental interest for the restriction has not been shown and/or because the governmental interests involved may be satisfied through less restrictive alternatives. However, in reaching this conclusion, the majority does not consider separately each activity which is restricted by the rule; namely, distribution, solicitation, sale, and collection of funds. Instead, the rule is analyzed as restricting a single form of activity. In my view, this constitutes an erroneous evaluation of the rule. Each activity which is sought to be regulated may serve a governmental interest to a greater or lesser degree and/or may serve a different governmental interest.

Additionally, each component of the rule may have a different and/or greater or lesser impact on first amendment activity. Thus, in the balance, some of the restrictions may constitute reasonable time, place, and manner regulations while others may not.

I agree with the majority's conclusion that the portions of the rule which serve to restrict the activities of solicitation and distribution of religious literature may not validly be applied to the members of ISKCON. As was noted by the majority, Rule 6.05 does not seek to regulate proselytism by ISKCON members. There is no basis in the record for distinguishing the effect of proselytism from that of solicitation and distribution of religious literature on the claimed governmental interests involved herein. The state contends that the limitation of solicitation and distribution of literature to a rented booth serves a substantial state interest in maintaining public order and minimizing crowd confusion. However, it would appear that the acts of solicitation and distribution have no greater impact on the public order than does the act of proselytism. All three acts merely involve the communication of ideas. In fact, solicitation may be viewed as one form of proselytism. Solicitation is an act, the purpose of which is to obtain support for the religion involved except that the solicitor urges financial support rather than support for religious beliefs. The distribution of religious literature also constitutes a form of proselytism through the spreading of religious beliefs by means of written words rather than oral communications. The distribution of literature may have a lesser impact on order than oral proselytism because it may take less time. Additionally, since large amounts of literature are already collected by Fair patrons, the distribution of religious literature by ISKCON members does not have any

great impact on any state concern for litter and the like. Thus, since the state expresses no substantial interest in regulating proselytism, it cannot validly claim to have any greater interest in regulating solicitation and distribution.

Therefore, these restrictions may not be justified as reasonable time, place, and manner restrictions since the acts of proselytism, solicitation, and distribution of religious literature are equally protected first amendment activities in this case. All three activities are religious activities which are required of ISKCON members. In fact, as plaintiffs urged at oral argument, these activities constitute the most important and central aspects of the Sankirtan ritual.

However, a different conclusion is required with respect to the regulation of the sales activities of and the collection of funds by members of ISKCON. Again, the state claims that the restriction of these activities to a booth serves a legitimate state interest in minimizing crowd confusion. The regulation serves this interest in a different way and to a greater extent than does the regulation of solicitation and distribution. Sales and collection activities engender additional confusion beyond that caused by solicitation and distribution because they involve acts of exchanging articles for money, fumbling for and dropping money, making change, etc. *See Intern. Soc. for Krishna Consciousness v. Eaves*, 601 F.2d 809 (5th Cir. 1979). While these activities are not incompatible with other ongoing activities at the fairgrounds, they do serve to augment an already existing crowd control problem. The substantiality of the state's interest in this regard is obvious. The crowd at the fairgrounds is concentrated in about one third of the 125-acre fairgrounds. The average daily crowd is in excess of 150,000 people. Yet, the mere recitation of numbers from the stipulation does not portray the situation. Because of the

large number of Fair patrons walking in the fairgrounds, there is confusion and congestion throughout the lanes of pedestrian traffic. Sales and collection can only serve to compound this problem. In determining that the state's interest in this regard is not substantial, the majority appears only to focus on the impact of ISKCON's activities on this problem. What the majority seems to forget is that its ruling today will allow for others engaged in first amendment activity to be excepted from the "booth rule." As plaintiffs conceded at oral argument, they stand on equal footing with other religious and political groups entitled to first amendment protection. The effect of unrestricted sales and collection on the crowd control problem at the Minnesota State Fair may, thus, readily be seen.[1]

Specifically with respect to the activities of members of ISKCON, the restriction of its sales and collection activities to a booth also serves a substantial and legitimate state interest in protecting Fair patrons from fraud, misrepresentation, and other acts of misconduct. At the 1977 Minnesota State Fair, ISKCON members were permitted by court order to distribute materials and collect donations but were denied the right to sell items away from a booth. As a result of ISKCON activity at this Fair, the Fair Staff received 234 complaints, some of which indicated that ISKCON members violated the court order by selling items outside of a rental booth under the guise of collecting donations. These complaints also show that members of ISKCON misrepresented their

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[1] *See Intern. Soc. for Krishna Consciousness v. Eaves*, 601 F. 2d 809 (5th Cir. 1979), *Edwards v. Maryland State Fair and Agricultural Society*, 476 F. Supp. 153 (D. Md. 1979), *Hynes v. Metropolitan Government of Nashville and Davidson County*, 478 F. Supp. 9 (M. D. Tenn. 1979), *Int'l. Soc., Krishna Con., Inc. v. McAvey*, 450 F. Supp. 1265 (S. D. N. Y. 1978), *Inter. Soc. for Krishna Consciousness v. Evans*, 440 F. Supp. 414 (S. D. Ohio 1977).

identities and purposes when requesting funds[2] and also solicited minors. In support of its motion for summary judgment, the state submitted affidavits which verified this misconduct. By restricting the sales and collections activities of ISKCON members to a rented booth, the state's interest in protecting fairgoers from such acts of misconduct would be served because such a rule would require ISKCON members to clearly identify themselves and their purpose and would enable the state to adequately police their activities to ensure that the members are not engaged in such acts of misconduct.[3]

The method of regulation in this case is impartial and nondiscriminatory. The rule is carefully drawn so that Fair officials can exercise no discretion when confining collection and sales activities to a booth. Fair officials cannot arbitrarily determine that some exhibitors are free to roam the fairgrounds while others are not. Nor is there any discretion given in the determination of who is entitled to rent booth space. Booths at the Fair are rented on a first-come, first-serve basis. Furthermore, the regulation is only minimally restrictive. It does not serve to prohibit any first amendment activity. The rule only limits that activity to a rented booth.

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[2] The complaints indicated that ISKCON members stated to fairgoers that they were representing the Department of Natural Resources or the State Fair or were collecting funds for needy children or agricultural schools.

[3] In footnote 8 of its opinion, the majority alludes to the claimed state interest in protecting the privacy of fairgoers and suggests that this interest is never relevant in the context of a state fair, citing *Farmer v. Moses*, 232 F. Supp. 154 (S. D. N. Y. 1964). While I find that this claimed interest is not substantially served by the regulation of sales and collection in this case, I cannot agree that the privacy interests of fairgoers may never be balanced against the interests of those engaged in first amendment activities in determining the reasonableness of a time, place, and manner regulation. *See Hynes v. Metropolitan Government of Nashville and Davidson County*, 478 F. Supp. 9 (M. D. Tenn. 1979), *Int'l. Soc., Krishna Con., Inc. v. McAvey*, 450 F. Supp. 1265 (S. D. N. Y. 1978).

Finally, the regulation of sales and collection only restricts non-communicative aspects of any exhibit's activity. It could not be more content neutral.

Thus, when the rule and the state's substantial interests in its enforcement are weighed against ISKCON's interests in this case, the reasonableness of the rule as a time, place, and manner regulation becomes apparent. Members of ISKCON have an undeniably protected interest in engaging in acts of sales and collection of funds since these are acts which are required as a part of the Sankirtan ritual. However, as plaintiffs stated at oral argument, these activities do not constitute the most central aspects of the ritual as do distribution of literature and proselytism. Thus, the regulation of sales and collection has a lesser impact on the religious activities of ISKCON members than would the regulation of distribution, proselytism, etc. Furthermore, the impact of the regulation on ISKCON activities is not great since the regulation is merely restrictive rather than prohibitive. Contrary to the statement in the majority opinion, there is nothing in the record which establishes that ISKCON members are required to perform any and all aspects of the Sankirtan ritual in a peripatetic manner. Therefore, although the regulation of sales and collection has some impact on ISKCON's religious activities, the impact is not great when compared with the substantial state interests served by the rule.

The majority concludes that even if the state has a substantial interest in enforcing its rule against ISKCON members, these interests may be served through less restrictive alternatives and, thus, the rule may not be upheld as reasonable. The majority suggests that the state's interests may be served through prohibitions of specific acts of misconduct, limitations on the numbers of those selling materials and

collecting funds throughout the fairgrounds, requirements concerning identification of ISKCON members, and through the bringing of civil and criminal actions for fraud and battery. However, in the context of the State Fair, these suggested alternatives could not viably be implemented and would only serve to increase the existing crowd control problems. All of the suggested alternatives would require Fair officials to police, in an individualized manner, specific acts of misconduct. The ability to police such activities is severely restricted if not made impossible because the fairgrounds is a large, overly-crowded area. Furthermore, the enforcing of a partial ban would entail the checking of credentials and other similar acts which would increase crowd confusion and congestion rather than ameliorate it. Additionally, all of the less restrictive alternatives would only serve to frustrate the legitimate state interest of promulgating a rule which is effective and easily enforceable. Thus, I cannot conclude that the restriction of sales and collection to a rented booth is anything less than a reasonable time, place, and manner regulation.

For the foregoing reasons, I would uphold Rule 6.05 to the extent that it restricts the sales of materials and the collection of funds to a rented booth.

SHERAN, Chief Justice (dissenting).

I agree with Mr. Justice Todd.

SCOTT, Justice (dissenting).

I join in the dissent of Justice Todd.

AMDAHL, J., not having been a member of this court at the time of the argument and submission, took no part in the consideration or decision of this case.